

ESTTA Tracking number: **ESTTA748014**

Filing date: **05/23/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

|                        |  |
|------------------------|--|
| Proceeding             | 92063494   |
| Party                  | Defendant<br>DTTM Operations LLC   |
| Correspondence Address | DTTM OPERATIONS LLC<br>725 FIFTH AVENUE<br>NEW YORK, NY 10022<br>UNITED STATES   |
| Submission             | Motion to Dismiss - Rule 12(b)   |
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| Signature              | /Daniel H. Weiner/   |
| Date                   | 05/23/2016   |
| Attachments            | MTD PCP_s Petition to Cancel.pdf(428558 bytes )<br>MTD PCP_s Petition to Cancel - Saltos Declaration.PDF(76085 bytes )<br>Exhibit A.pdf(94595 bytes )<br>Exhibit B.pdf(90693 bytes )<br>Exhibit C.pdf(88650 bytes )<br>Exhibit D.pdf(347847 bytes )<br>Exhibit E.pdf(5120190 bytes )<br>Exhibit F.pdf(939354 bytes )<br>Exhibit G.pdf(139889 bytes ) |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Registration No. 4,859,780 (TRUMP)  
Registered November 24, 2015

In re Registration No. 4,874,427 (TRUMP)  
Registered December 22, 2015

In re Registration No. 4,813,593 (TRUMP)  
Registered September 15, 2015

In re Registration No. 4,087,954 (TRUMP)  
Registered January 17, 2012

In re Registration No. 4,462,986 (Stylized) (TRUMP)  
Registered January 7, 2014

In re Registration No. 3,360,783 (Stylized) (TRUMP)  
Registered November 24, 2015

In re Registration No. 3,687,022 (TRUMP)  
Registered September 22, 2009

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|------------------------------------|---|---------------------------|
| ----- X                            |   | :                         |
|                                    |   | :                         |
| PROSPECTOR CAPITAL PARTNERS, INC., | : |                           |
|                                    | : | Cancellation No. 92063494 |
| Petitioner,                        | : |                           |
|                                    | : |                           |
| -v-                                | : |                           |
|                                    | : |                           |
| DTTM OPERATIONS LLC,               | : |                           |
|                                    | : |                           |
| Registrant.                        | : |                           |
|                                    | : |                           |
| ----- X                            |   |                           |

## REGISTRANT'S MOTION TO DISMISS PETITION FOR CANCELLATION

Pursuant to Trademark Rule of Practice 2.127, Fed. R. Civ. P. 12(b)(6) and Trademark Trial and Appeal Board ("TTAB" or "the Board") Manual of Procedure § 503, Registrant DTTM Operations LLC ("DTTM") hereby moves to dismiss petitioner Prospector Capital Partners, Inc.'s ("Petitioner")<sup>1</sup> Petition to Cancel DTTM's registrations for various marks (U.S. Reg. Nos.

1. Petitioner is a Nevada corporation formerly known as Trump Your Competition, Inc. (“TYC”). Petition at 1.

4,859,780, 4,874,427, 4,813,593, 4,087,954, 4,462,986, 3,360,783 and 3,687,022) (collectively, the “TRUMP Registrations”) on the basis of alleged abandonment.

### **PRELIMINARY STATEMENT**

This proceeding represents the latest attempt by Petitioner to try and hijack the TTAB to harass DTTM and its owner, Donald J. Trump. In a prior TTAB proceeding, Petitioner’s predecessor, Trump Your Competition, Inc. (“TYC”), demanded Mr. Trump’s deposition on topics on which Mr. Trump lacked unique, personal knowledge. On January 6, 2016, the United States District Court for the Southern District of New York (the “New York Federal Court”) repudiated TYC’s effort, ruling that it saw “no point to the deposition other than to harass” Mr. Trump and granting Mr. Trump’s motion for a protective order.<sup>2</sup>

In response, on April 11, 2016, Petitioner filed this proceeding seeking to cancel the TRUMP Registrations on the grounds of abandonment, claiming that DTTM’s alleged failure to supervise certain marks once owned by Mr. Trump (the “TRUMP UNIVERSITY Marks”<sup>3</sup>) somehow constitutes naked licensing. Printouts from the electronic database records of the U.S. Patent and Trademark Office showing the status and title of these registrations are attached to the Declaration of Lena C. Saltos (“Saltos Declaration”) as Exhibit A. The Petition should be dismissed.

First, Petitioner has no standing. To demonstrate standing, the petitioner must show that it has a real interest in the outcome of the proceeding. Here, Petitioner fails to allege any facts that show that it will suffer damage if DTTM is permitted to maintain the TRUMP Registrations going forward.

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2. Summary Order in *Trump Your Competition, Inc. v. Donald J. Trump*, 15 Misc. 00400 (S.D.N.Y.), Saltos Declaration Exhibit B; Transcript of the Order of the Honorable Alvin K. Hellerstein in *Trump Your Competition, Inc. v. Donald J. Trump*, dated January 6, 2016, 15 Misc. 00400 (S.D.N.Y.), Saltos Declaration Exhibit C.

3. U.S. Registration Nos. 3,321,564 and 3,112,873

Second, Petitioner fails to assert any valid basis for cancelation of the TRUMP Registrations. While Petitioner contends that DTTM has failed to properly supervise the TRUMP UNIVERSITY Marks, those marks are not at issue in this proceeding. Instead, solely at issue are the TRUMP Registrations. The Petition, however, is completely devoid of any allegation that DTTM failed to properly supervise the TRUMP Registrations. As for the TRUMP UNIBERSITY Marks, not only were they never owned by DTTM, they were also previously canceled and cannot therefore be at issue in this Petition.

The Board should not tolerate such litigation tactics, whose only discernable purpose is to harass another party. Because Petitioner fails to state a valid basis for cancelation of the TRUMP Registrations, the Board should dismiss the Petition.

### **STATEMENT OF FACTS**

#### **A. The TRUMP Registrations**

Between May 16, 2006 and May 28, 2015, DTTM's predecessor filed the various marks comprising the TRUMP Registrations in connection with an array of goods and services from golf course and club house services in Class 35 to dress shirts in Class 25. The various goods and services for the TRUMP Registrations include the following:

- TRUMP, U.S. Reg. No. 4,859,780, for "Commercial information and advice for consumers; online and retail store services featuring golf accessories" in Class 35 and "Golf course and club house services; golf courses; entertainment in the nature of golf tournaments; golf instruction; conducting of professional golf competitions; social club services, namely, arranging, organizing, and hosting social events, get-togethers, and parties for club members" in Class 41, registered on November 24, 2015, based on first use in November 2009 for Class 35 and May 1997 for Class 41.
- TRUMP, U.S. Reg. No. 4,874,427, for "Political action committee services, namely, promoting public awareness of political issues" in Class 35 and "Fundraising in the field of politics" in Class 36, registered on December 22, 2015, based on first use in April 2015 and May 2015 for Class 36.
- TRUMP, U.S. Reg. No. 4,813,593, for "Limousine services" in Class 36, based on first use on October 6, 2014.

- TRUMP, U.S. Reg. No. 4,087,954, for “Gambling services” in Class 41, based on first use in February 1985.
- TRUMP (Stylized), U.S. Reg. No. 4,462,986, for “Toothbrush holders; soap dishes; drinking glasses, namely, tumblers; lotion dispensers; soap dispensers; cotton ball jars; trays not of precious metal; ceramic tissue box covers” in Class 21 and “Bed blankets; duvets; duvet covers; bed skirts; quilts; pillow shams; comforters; shower curtains; towels; wash cloths” in Class 24, based on first use in June 2011 for Class 21 and November 2010 for Class 24.
- TRUMP (Stylized), U.S. Reg. No. 3,360,783, for “Jewelry” in Class 14, based on first use in April 2005.
- TRUMP, U.S. Reg. No. 3,687,022, for “Dress shirts” in Class 25, based on first use in March 2005.

Printouts from the electronic database records of the U.S. Patent and Trademark Office showing the status and title of these registrations are attached to the Saltos Declaration as Exhibit

D. None of these marks relates to services associated with Petitioner’s TRUMP YOUR COMPETITION mark, namely advertising and marketing consultancy services.

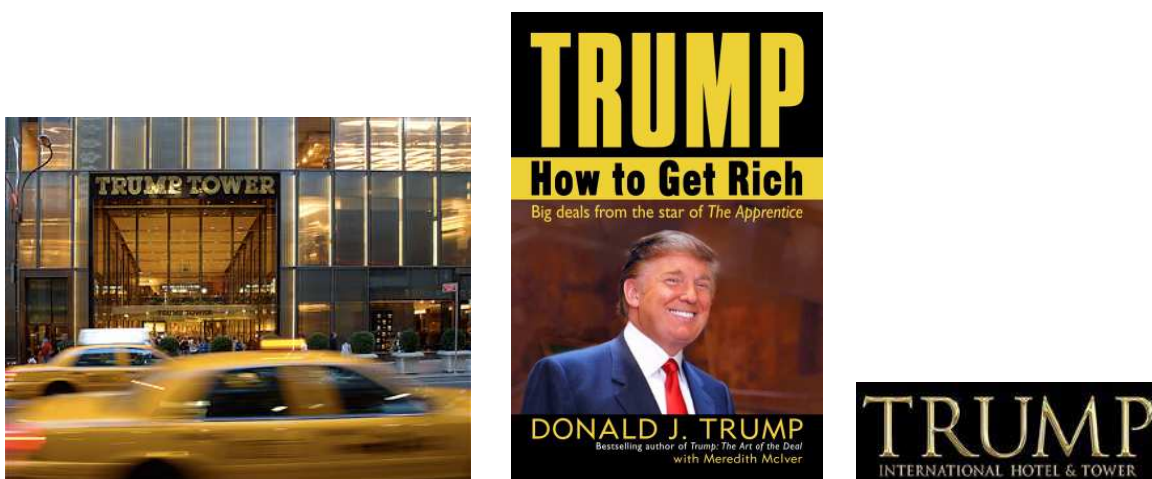
#### **B. The TRUMP YOUR COMPETITION Opposition Proceeding**

##### **1. TYC’s Mark**

This Petition is the latest chapter in Petitioner’s misuse of the TTAB to harass Mr. Trump and his companies. On July 28, 2014, Mr. Trump, the prior owner of the TRUMP Registrations, initiated an opposition proceeding (the “TYC Opposition Proceeding”) against TYC, applicant for the mark TRUMP YOUR COMPETITION in connection with “advertising and marketing consultancy” services. TYC had begun using its mark in a manner that infringed on Mr. Trump’s trademarks:



Below are examples of Mr. Trump's famous, previously registered marks in similar formats, featuring the word "Trump" in large, all-capital gold block lettering:



## 2. Mr. Garten's Testimony in the TYC Opposition Proceeding

In the TYC Opposition proceeding, Alan Garten, General Counsel for the Trump Organization, testified during Mr. Trump's testimony period. At his deposition, Mr. Trump's counsel made clear that TYC could cross-examine Mr. Garten on any issue. (Garten Tr. at 116:20-21, Saltos Declaration Exhibit E.) In response, TYC's counsel stated that he had questions that he believed only Mr. Trump could answer. *Id.* at 117:5-8. TYC's counsel refused to pose these questions to Mr. Garten, and at no point indicated why he believed Mr. Trump had unique, personal knowledge relevant to the TYC Opposition Proceeding.

### **3. The Offer of Eric Trump's Testimony and Sworn Written Responses from Mr. Trump in the TYC Opposition Proceeding**

In a good-faith effort to provide TYC with information that it claimed to seek in the TYC Opposition Proceeding, on November 4, 2015, Mr. Trump supplemented his pre-trial disclosures to add as a witness Eric Trump, the Trump Organization's Executive Vice President of Development and Acquisitions. (See Mr. Trump's Supplemental Pretrial Disclosures, Saltos Declaration Exhibit F.) Similar to Mr. Garten, Eric Trump had personal knowledge of the relevant facts at issue in the TYC Opposition Proceeding.

TYC ignored Mr. Trump's offer to take Eric Trump's testimony; instead, TYC continued to insist that Mr. Trump himself appear to testify. On November 11, 2015, TYC served a subpoena demanding that Mr. Trump appear for deposition on January 5, 2016.<sup>4</sup> On January 5, 2016, Mr. Trump (i) opposed TYC's motion to compel his deposition and (ii) sought a protective order quashing his deposition notice.

### **4. The S.D.N.Y. Order**

On January 6, 2016, the New York Federal Court denied TYC's motion to compel, finding "no point to the deposition other than to harass" Mr. Trump and granting Mr. Trump's motion for a protective order. See Summary Order in *Trump Your Competition, Inc. v. Donald J. Trump*, 15 Misc. 00400 (S.D.N.Y.), Saltos Declaration Exhibit B; Transcript of the Order of the Honorable Alvin K. Hellerstein in *Trump Your Competition, Inc. v. Donald J. Trump*, dated January 6, 2016, 15 Misc. 00400 (S.D.N.Y.), Saltos Declaration Exhibit C.

### **5. TYC's Motions to Amend Its Answer and Dismiss the TYC Opposition Proceeding**

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4. On December 15, 2015, TYC moved in the New York Federal Court to compel Mr. Trump's deposition. On December 22, 2015, the Board suspended the proceeding pending the resolution of TYC's motion to compel Mr. Trump's deposition.

On January 13, 2016, notwithstanding the Board's suspension, TYC filed a motion to amend its answer to: (i) dismiss Mr. Trump's notice of opposition and all related claims and (ii) amend its answer to add affirmative defenses and counterclaims to cancel Mr. Trump's marks.<sup>5</sup>

On February 22, 2016, TYC filed a motion to resume the TYC Opposition Proceeding for the limited purpose of deciding TYC's motion to dismiss. On March 2, 2016, with the TYC Opposition Proceeding still suspended, TYC moved again to amend its Answer, this time seeking to add the affirmative defense of naked licensing. On March 21, 2016, the Board issued an order finding that TYC's conduct was improper, noting that TYC had "filed multiple papers in violation of the . . . suspension order."<sup>6</sup>

## **6. TYC's Change of Mark**

On December 21, 2015, counsel for Mr. Trump discovered that TYC dramatically changed its mark to the below:



Because of the re-stylized mark's de-emphasis of "Trump" and its change in font color and style, Mr. Trump's Counsel contacted TYC in order to revisit the possibility of settlement. TYC professed no interest in doing so.

## **7. Withdrawal of the Opposition**

Given TYC's change in its use of the TRUMP YOUR COMPETITION mark, Mr. Trump and DTTM withdrew the TYC Opposition.

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5. On January 25, 2016, Mr. Trump assigned to DTTM all interest in his marks.

6. *Donald J. Trump v. Trump Your Competition, Inc.*, Opposition No. 91217618 (T.T.A.B. Mar. 21, 2016).



Accordingly, on March 23, 2016, the Board dismissed the TYC Opposition Proceeding.

**C. The Current Petition to Cancel**

Filed on April 11, 2016, the current Petition alleges a single claim of abandonment, namely that DTTM abandoned the TRUMP Registrations through its purported naked licensing of the TRUMP UNIVERSITY Marks. As a claimed basis for standing to cancel the various TRUMP Registrations, Petitioner simply offers its “common law rights in the TRUMP YOUR COMPETITION mark.” Petition at 2. At no point does Petitioner indicate how, if at all, it has, will or could be damaged by any of the TRUMP Registrations.

Petitioner’s demand for wholesale cancellation of the TRUMP Registrations is premised on its allegation that DTTM and its predecessor engaged in naked licensing of the TRUMP UNIVERSITY Marks — marks Petitioner correctly observes are “now both dead.” *Id.* at ¶ 1. Petitioner nevertheless proceeds to chronicle various state court and federal court proceedings brought by former students of the now defunct Trump University even though none of those proceedings involves any claims related to the validity of the TRUMP UNIVERSITY Marks. *Id.* at ¶¶ 2-13. As discussed further below, Petitioner’s procedural narrative, for all of its extensive detail, provides no support for Petitioner’s novel, erroneous legal theory that DTTM’s alleged naked licensing of “dead” marks supplies a *per se* ground for wholesale cancellation of the TRUMP Registrations.

Petitioner concludes its Petition with the unremarkable proposition that, “[i]f a trademark licensor does not exercise adequate quality control over a licensee’s activities, the licensed mark *may* lose its trademark significance.” *Id.* at ¶ 15 (emphasis added). Yet nowhere in the Petition does Petitioner allege that any of the TRUMP Registrations it now seeks to cancel have *in fact* lost their significance as indicators of source with respect to the particular goods or services offered thereunder.

### APPLICABLE LEGAL STANDARD

The purpose of a motion under Fed. R. Civ. P. 12(b)(6) is to eliminate those claims for cancellation “that are fatally flawed in their legal premises and destined to fail[.]” *Fiat Group Auto. S.p.A v. ISM, Inc.*, 94 U.S.P.Q.2d 1111, 1112 (TTAB 2010) (quoting *Advanced Cardiovascular Sys., Inc. v. Scimed Life Sys., Inc.* 988 F.2d 1157, 1160 (Fed. Cir. 1993)). A petition cannot withstand a motion to dismiss for failure to state a claim on which relief can be granted unless it alleges sufficient factual content that, if proved, would allow the Board to conclude that (1) the plaintiff has standing to maintain the proceeding, and (2) valid grounds exist for opposing or cancelling the mark. *Doyle v. Al Johnson’s Swedish Rest. & Butik Inc.*, 101 U.S.P.Q.2d 1780, 1782 (T.T.A.B. 2012) (citing *Young v. AGB Corp.*, 47 U.S.P.Q.2d 1752, 1754 (Fed. Cir. 1998) and TBMP § 503.02). The initial pleading “must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 554, 570 (2007)). Petitioner cannot get by on “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements.” *Iqbal*, 556 U.S. at 679 (citing *Twombly*, 550 U.S. at 555).

### ARGUMENT

Here, the Petition fails to state a claim on which relief can be granted for several reasons. First, Petitioner does not have standing to challenge the TRUMP Registrations because Petitioner fails to allege (and cannot reasonably allege) any damage from DTTM’s maintenance of the TRUMP Registrations. Second, Petitioner fails to state a claim for abandonment of the TRUMP Registrations based on alleged naked licensing. Third, Petitioner’s argument that alleged naked licensing of the TRUMP UNIVERSITY Marks results in cancellation of the TRUMP Registrations is wrong on both the facts and the law. Fourth, Petitioner fails to

properly plead any other recognized basis for cancellation. Because Petitioner's abandonment claim is not legally supportable or plausible, the Board should dismiss Petitioner's Petition.

# **I. PETITIONER LACKS STANDING TO BRING THIS CANCELLATION ACTION.**

The Board should dismiss the Petition because Petitioner lacks standing to bring this cancellation action. Standing is a threshold issue on which Petitioner has the burden of proof; it is intended to prevent litigation where there is no real controversy between the parties. *Lipton Industries v. Ralston Purina Co.*, 670 F.2d 1024, 213 USPQ 1851 (C.C.P.A.); *see Young v. AGB Corp.*, 47 U.S.P.Q.2d 1752, 1754 (a petitioner must show that it "possesses standing to challenge the continued presence on the register of the subject registration" (quoting *Lipton Indus., Inc.*, 213 U.S.P.Q. at 187)); *Ritchie v. Simpson*, 170 F.3d 1092, 1095 (Fed. Cir. 1999) (stating that standing requirements "stem[] from a policy of preventing 'mere intermeddlers' who do not raise a real controversy from bringing oppositions or cancellation proceedings in the PTO" ((emphasis added))).

To meet its burden, Petitioner must show a real interest in the proceeding which can only be demonstrated by pleading facts sufficient to show that it possesses a reasonable belief that it will suffer concrete, personalized damages if the TRUMP Registrations remain registered. T.B.M.P 309.03 (b); *see Ritchie v. Simpson*, 50 U.S.P.Q.2d 1023, 1026 (Fed. Cir. 1999) ("the opposer must have a direct and personal stake in the outcome of the opposition"). Here, the Petition contains no allegation that Petitioner will suffer any such damage as a result of continued registration of the TRUMP Registrations. Instead, the Petition alleges only that Petitioner has standing based on its "common law rights," providing no description as to what these alleged common law rights constitute. This ambiguous, generalized reference to "common law rights" is insufficient to satisfy Petitioner's burden of pleading particularized facts as to how it will personally suffer damages as a result of the registration. The standing requirement is intended to prevent this type of generalized

action by a “mere intermeddler.” *See Nh Beach Pizza, LLC*, CANCELLATION 9205895, 2015 WL 7772759, at \*3 (Nov. 20, 2015) (to establish standing, the petitioner must show a “direct and personal stake” in the outcome of the matter).

Further demonstrating its failure to allege standing, Petitioner fails to plead any of the traditional bases of standing to bring a cancellation action contained in the Trademark Trial and Appeal Board Manual of Procedure (TBMP). TPMB Section 309.03 provides a non-exhaustive list of allegations which, if sufficiently plead, may provide a basis for finding that a petitioner might suffer damages as a result of a mark’s registration. *See* TBMP § 309.03(b). Examples include, among other factors, a claim of likelihood of confusion and that the marks at issue are blocking registration of the petitioner’s marks. TBMP § 309.03(b).

Here, the Petition does not include any allegation of likelihood of confusion - presumably because it would contradict the position articulated by Petitioner’s predecessor, TYC, in the TYC Opposition Proceeding that there is no likelihood of confusion between TRUMP YOUR COMPETITION and certain TRUMP marks. *See Donald J. Trump v. Trump Your Competition, Inc.*, Opposition No. 91217618, Applicant’s Answer to Petitioner’s Amended Notice of Opposition and Applicant’s Affirmative Defenses, ¶¶ 9, 10 (T.T.A.B. Nov. 12, 2014), Saltos Declaration Exhibit G. Similarly, Petitioner fails to argue that it has been refused registration of the TRUMP YOUR COMPETITION mark or that it has a *bona fide* interest in using the same mark for related goods; it would be unable to do so in any event, as none of the TRUMP Registrations relates to the advertising and marketing consulting services used in connection with its TRUMP YOUR COMPETITION mark. *See Int’l Telephone and Telegraph Corp., v. Int’l Mobile Machines Corp.*, 218 USPQ 1024, 1027 (TTAB 1983) (finding that a petitioner who had alleged that the respondent had abandoned its registered mark and that the registered mark would bar registration of its own mark

failed to establish standing, because it “neither [alleged] a likelihood of confusion nor that it has actually been refused registration of its mark in view of respondent’s registration.”).

Indeed, shortly after Petitioner initiated this proceeding, Petitioner’s TRUMP YOUR COMPETITION mark proceeded to registration (U.S. Reg. No. 4948838). Petitioner is therefore unable to show that that the TRUMP Registrations block its mark. That Petitioner now owns a federally registered trademark limits Petitioner’s potential arguments for standing, as the TRUMP Registrations can no longer serve as a bar to registration of that mark. Therefore, Petitioner has no real interest in this proceeding and does not have standing to bring this cancellation action.

## **II. PETITIONER FAILS TO STATE A LEGALLY PERMISSIBLE GROUND FOR CANCELLATION.**

### **A. Petitioner Fails to State a Claim for Abandonment of the TRUMP Registrations.**

Even if Petitioner satisfied its standing requirements, which it does not, it fails to plead a valid statutory ground to support cancellation of the TRUMP Registrations. *See* TBMP 309.03(c) (“[i]n addition to standing a plaintiff must also plead (and later prove) a statutory ground or grounds for opposition or cancellation.”). Here, Petitioner alleges that the TRUMP Registrations should be canceled on the ground of abandonment as a result of naked licensing. That is wrong.

To bring a cancellation action on the basis of abandonment through naked licensing, Petitioner must plead that DTTM failed to properly supervise the quality of the goods sold under the mark. *See Lifeguard Licensing Corp. v. Gogo Sports, Inc.*, No. 10-CV-9075 PAC, 2013 WL 4400520, at \*3 (S.D.N.Y. Aug. 15, 2013); *Excell Consumer Products Ltd. v. Smart Candle LLC*, No. 11 C 7220 MEA, 2013 WL 4828581, at \*12 (S.D.N.Y. Sept. 10, 2013). Petitioner fails to do so. As Petitioner concedes, the TRUMP UNIVERSITY mark has already been cancelled. To the extent

Petitioner's cancellation pertains to naked licensing of those marks, it is moot. Further, Petitioner does not allege any facts regarding the quality of the supervision of the licensing for any of the TRUMP Registrations it seeks to cancel. *See Lifeguard Licensing Corp.*, 2013 WL 4400520, at \*3 (the "critical question . . . is whether the licensees' operations are policed adequately to guarantee the quality of the products [or services] sold under *the mark*." (emphasis added)); *Excell Consumer Products Ltd.*, 2013 WL 4828581, at \*12 ("The focus and ultimate purpose of [an] inquiry [involving a claim of naked licensing] is the protection of consumers – the sufficiency of a certain level of quality control is determined by the expectations that the licensee's use of *the mark* creates in consumers and the supervision that is reasonably necessary to insure that those expectations are not endangered." (emphasis added)). Petitioner fails to meet its burden of pleading sufficient facts to support a cancellation action.

Petitioner's argument is also flawed because it is premised on the contention that an allegation of naked licensing amounts to abandonment. However, the Lanham Act is clear that naked licensing does not constitute *per se* abandonment. *See* § 15 U.S.C. 1127. In order to prove "abandonment," a petitioner must show that, due to acts or omissions of the trademark owner, the mark has lost "its significance as a mark." *See id.* Here, however, DTTM was never the owner of the TRUMP UNIVERSITY Marks. *See* Saltos Declaration, Exhibit A. Thus, Petitioner cannot possibly allege that DTTM failed to supervise the TRUMP UNIVERSITY Marks. In any event, Petitioner also fails to plead that any alleged failure by DTTM to supervise the TRUMP UNIVERSITY marks lead to the TRUMP Registrations' loss of significance. Without this pleading, Petitioner's claim is defective. *See Blue Magic Products, Inc. v. Blue Magic, Inc.*, No. CIV S-01155WBSJFM, 2001 WL 34098657, at \*5-6 (E.D. Cal. Sept. 5, 2001) (court would not "elevate form over substance" to conclude as a matter of law that licensing arrangement constituted abandonment); *Exxon Corp. v. Oxxford Clothes, Inc.*, 109 F.3d 1070, 1079-80 (5th Cir. 1997)

(dismissing abandonment claim on finding that, “[e]ven were we to construe Oxxford’s pleadings to allege the unlikely proposition that Exxon’s registered marks, due to these third-party phase out agreements, have lost their distinctiveness as indicators of origin, Oxxford has offered absolutely no evidence to substantiate such a claim”).

**B. Naked Licensing of the TRUMP UNIVERSITY Marks Cannot Support the Cancellation of the TRUMP Registrations.**

Even a successful claim for naked licensing of the TRUMP UNIVERSITY marks would not support cancellation of the TRUMP Registrations. An allegation for naked licensing is narrowly applied with respect to each mark at issue. 11 U.S.C. 1127 (a mark is deemed abandoned “[w]hen any course of conduct of the owner . . . causes *the mark* . . . to lose its significance as a mark” (emphasis added)); *see e.g., Excell Consumer Products Ltd.*, 2013 WL 4828581, at \*12; *Lifeguard Licensing Corp.*, 2013 WL 4400520, at \*3.

DTTM is not aware of a single case in which an allegation of naked licensing of one mark resulted in the cancellation of a registrant’s entire portfolio of trademarks. Rather, naked licensing is a limited claim that cannot extend to an entire portfolio of other marks registered and in use with unrelated goods and services.<sup>7</sup>

**C. Petitioner’s Allegation of Unlawful Use of Commerce Fails to State a Claim.**

Petitioner makes unspecific reference to “unlawful use in commerce” in its Petition. (It is unclear whether Petitioner intends this reference to serve as a separate ground for cancellation, or an elaboration of its naked licensing argument.) Once again, Petitioner misses

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7. Petitioner’s cited authorities do not support its assertions that Mr. Trump was involved in naked licensing of the TRUMP UNIVERSITY marks and therefore all of the TRUMP Registrations should be abandoned. In fact, in *Carl Zeiss Stiftung v. V.E.B. Carl Zeiss, Jena*, 293 F. Supp. 892, 919 (S.D.N.Y. 1968), *aff’d as modified sub nom. Car Zeiss Stiftung v. VEB Carl Zeiss Jena*, 433 F.2d 686 (2d Cir. 1970), the court concluded that the defendant failed to show abandonment. In *Zoba*, the court did not reach the merits of the abandonment claim, finding it barred by the defendant’s failure to raise it below. *Zoba Int’l Corp.*, 98 U.S.P.Q.2d 1006 (P.T.O. Mar. 10, 2011).

the mark: Section 14 of the Lanham Act delineates the statutory grounds for cancellation of registration, none of which presents “unlawful use in commerce” as a ground for cancellation. See U.S.C. 1064. Because unlawful use in commerce is not included in the governing provisions of the Lanham Act, it is no basis to assert cancellation. See *Institut Nat’l Des Appellations D’Origine*, 47 U.S.P.Q.2d 1875 n.2 (P.T.O. May 29, 1998) (“Trademark Rule 2.69 [Compliance with other laws] is not, in itself, a statutory ground of opposition. It merely authorizes the Trademark Examining Attorney to make inquiry, in certain circumstances, regarding the applicant’s compliance with other laws in order to determine whether applicant’s use of the mark is lawful use in commerce, under Trademark Act Section 1, 15 U.S.C. Section 1051.”).<sup>8</sup>

### CONCLUSION

Petitioner does not allege any facts that can establish DTTM’s abandonment through naked licensing of the TRUMP Registrations. For the foregoing reasons, DTTM requests that the Board dismiss Petitioner’s Petition for cancellation in its entirety.

Dated: New York, New York  
May 23, 2016

HUGHES HUBBARD & REED LLP

By: /Daniel H. Weiner/  
Daniel H. Weiner  
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Attorneys for Registrant

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8. On the cover pages of its Petition for Cancellation, Petitioner lists only “Abandonment” as the “Grounds for Cancellation” for each of the TRUMP Registrations and cites to Section 14 of the Lanham Act. Petitioner is therefore estopped from asserting other, non-abandonment grounds for cancellation, including unlawful use in commerce. See *Panda Sec., S.L.*, 91191921, 2013 WL 3188906, at \*5 (Jan. 8, 2013) (“We can discern no other statutory ground for cancellation in Claimant’s pleadings. Claimant may not relay on any claim that was not adequately pleaded, as Registration would be without fair notice as to the nature of the claim against which it must defend, and would thereby be deprived of procedural due process rights.”).



CERTIFICATE OF SERVICE

I, ANGELA LELO, hereby certify that I am over the age of 18 years, not a party to this action, and that on May 23, 2016, I caused to be served a true and correct copy of the foregoing REGISTRANT'S MOTION TO DISMISS PETITION FOR CANCELLATION by first-class mail to Attorney of Record for the Petitioner:

Rod Underhill, Esq.  
P.O. Box 1238  
Julian, CA 92036

I further certify under penalty of perjury that the foregoing is true and correct.

Dated: New York, NY  
May 23, 2016

By /Angela Lelo/  
Angela Lelo

PROSPECTOR CAPITAL PARTNERS, INC.,  
Petitioner,  
-v-  
DTTM OPERATIONS LLC,  
Registrant.

LENA C. SALTOS declares and says:


2. I attach as exhibits hereto true and correct copies of the following documents:

|   |   |
|---|---|
| A | Printouts from the electronic database records of the U.S. Patent and Trademark Office showing the status and title of the TRUMP UNIVERSITY registrations |
| B | Summary Order in <i>Trump Your Competition, Inc. v. Donald J. Trump</i> , dated January 6, 2016, <sup>15</sup> Misc. 00400 (S.D.N.Y.)                     |

| <u>Exhibit</u> | <u>Description</u>  |
|----------------|---|
| C              | Transcript of the Order of the Honorable Alvin K. Hellerstein in <i>Trump Your Competition, Inc. v. Donald J. Trump</i> , dated January 6, 2016, 15 Misc. 00400 (S.D.N.Y.)                                      |
| D              | Printouts from the electronic database records of the U.S. Patent and Trademark Office showing the status and title of the TRUMP Registrations  |
| E              | Transcript of the deposition testimony of Alan Garten in the TRUMP YOUR COMPETITION opposition proceeding (the " <u>TYC Opposition Proceeding</u> ")  |
| F              | Mr. Trump's Supplemental Pretrial Disclosures in the TYC Opposition Proceeding  |
| G              | <i>Donald J. Trump v. Trump Your Competition, Inc.</i> , Opposition No. 91217618, Applicant's Answer to Petitioner's Amended Notice of Opposition and Applicant's Affirmative Defenses (T.T.A.B. Nov. 12, 2014) |

I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, New York this 23 day of May, 2016.

  
\_\_\_\_\_  
Lena C. Saltos

## **Exhibit A**

Printouts from the electronic database records of  
the U.S. Patent and Trademark Office showing  
the status and title of the TRUMP UNIVERSITY  
registrations

**Generated on:** This page was generated by TSDR on 2016-05-23 08:59:21 EDT

**Mark:** TRUMP UNIVERSITY

TRUMP UNIVERSITY

**US Serial Number:** 78874738

**Application Filing Date:** May 02, 2006

**US Registration Number:** 3321564

**Registration Date:** Oct. 23, 2007

**Register:** Principal

**Mark Type:** Trademark

**Status:** Registration cancelled because registrant did not file an acceptable declaration under Section 8. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

**Status Date:** May 30, 2014

**Publication Date:** Jan. 02, 2007

**Notice of Allowance Date:** Mar. 27, 2007

**Date Cancelled:** May 30, 2014

---

## Mark Information

---

**Mark Literal Elements:** TRUMP UNIVERSITY

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

**Disclaimer:** "UNIVERSITY"

---

## Related Properties Information

---

**Claimed Ownership of US Registrations:** 0235312, 2240310, 2413984 and others

---

## Goods and Services

---

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Pre-recorded DVD's, CD's, and audiotapes featuring study course material in the field of real estate and entrepreneurship

**International Class(es):** 009 - Primary Class

**U.S Class(es):** 021, 023, 026, 036, 038

**Class Status:** SECTION 8 - CANCELLED

**Basis:** 1(a)

**First Use:** May 2005

**Use in Commerce:** May 2005

**For:** Printed materials, namely, books, for home study courses in the field of real estate and entrepreneurship

**International Class(es):** 016 - Primary Class

**U.S Class(es):** 002, 005, 022, 023, 029, 037, 038, 050

**Class Status:** SECTION 8 - CANCELLED

**Basis:** 1(a)

**First Use:** May 2005

**Use in Commerce:** May 2005

---

## Basis Information (Case Level)

---

**Filed Use:** No

**Filed ITU:** Yes

**Filed 44D:** No

**Filed 44E:** No

**Filed 66A:** No

**Filed No Basis:** No

**Currently Use:** Yes

**Currently ITU:** No

**Currently 44D:** No

**Currently 44E:** No

**Currently 66A:** No

**Currently No Basis:** No

**Amended Use:** No

**Amended ITU:** No

**Amended 44D:** No

**Amended 44E:** No

## Current Owner(s) Information

**Owner Name:** Trump, Donald J.

**Owner Address:** 725 Fifth Avenue  
New York, NEW YORK 10022  
UNITED STATES

**Legal Entity Type:** INDIVIDUAL

**Citizenship:** UNITED STATES

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Tamar Niv Bessinger

### Correspondent

**Correspondent Name/Address:** Tamar Niv Bessinger  
Fross Zelnick Lehrman & Zissu, P.C.  
866 United Nations Plaza  
New York, NEW YORK 10017  
UNITED STATES

### Domestic Representative - Not Found

## Prosecution History

| Date          | Description  | Proceeding Number |
|---------------|--|-------------------|
| May 30, 2014  | CANCELLED SEC. 8 (6-YR)                                |                   |
| Jul. 17, 2008 | ATTORNEY REVOKED AND/OR APPOINTED                      |                   |
| Jul. 17, 2008 | TEAS REVOKE/APPOINT ATTORNEY RECEIVED                  |                   |
| Oct. 23, 2007 | REGISTERED-PRINCIPAL REGISTER                          |                   |
| Sep. 17, 2007 | LAW OFFICE REGISTRATION REVIEW COMPLETED               | 68691             |
| Sep. 17, 2007 | ASSIGNED TO LIE  | 68691             |
| Aug. 09, 2007 | ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED              |                   |
| Aug. 03, 2007 | STATEMENT OF USE PROCESSING COMPLETE                   | 76985             |
| May 25, 2007  | USE AMENDMENT FILED                                    | 76985             |
| May 25, 2007  | TEAS STATEMENT OF USE RECEIVED                         |                   |
| Mar. 27, 2007 | NOA MAILED - SOU REQUIRED FROM APPLICANT               |                   |
| Jan. 02, 2007 | PUBLISHED FOR OPPOSITION                               |                   |
| Dec. 13, 2006 | NOTICE OF PUBLICATION                                  |                   |
| Nov. 14, 2006 | LAW OFFICE PUBLICATION REVIEW COMPLETED                | 78413             |
| Nov. 09, 2006 | ASSIGNED TO LIE  | 78413             |
| Nov. 08, 2006 | APPROVED FOR PUB - PRINCIPAL REGISTER                  |                   |
| Nov. 07, 2006 | TEAS/EMAIL CORRESPONDENCE ENTERED                      | 77075             |
| Oct. 31, 2006 | CORRESPONDENCE RECEIVED IN LAW OFFICE                  | 77075             |
| Oct. 31, 2006 | TEAS RESPONSE TO OFFICE ACTION RECEIVED                |                   |
| Oct. 24, 2006 | EXAMINER'S AMENDMENT/PRIORITY ACTION E-MAILED          | 6326              |
| Oct. 24, 2006 | EXAMINERS AMENDMENT AND/OR PRIORITY ACTION - COMPLETED | 82435             |
| Oct. 02, 2006 | ASSIGNED TO EXAMINER                                   | 82435             |
| May 09, 2006  | NEW APPLICATION ENTERED IN TRAM                        |                   |

## TM Staff and Location Information

**TM Staff Information - None**

**File Location**

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Sep. 17, 2007

**Generated on:** This page was generated by TSDR on 2016-05-23 08:58:06 EDT

**Mark:** TRUMP UNIVERSITY

TRUMP UNIVERSITY

**US Serial Number:** 78462175

**Application Filing Date:** Aug. 04, 2004

**US Registration Number:** 3112873

**Registration Date:** Jul. 04, 2006

**Register:** Principal

**Mark Type:** Service Mark

**TM5 Common Status Descriptor:**



DEAD/REGISTRATION/Cancelled/Invalidated

The trademark application was registered, but subsequently it was cancelled or invalidated and removed from the registry.

**Status:** Registration cancelled because registrant did not file an acceptable declaration under Section 8. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

**Status Date:** Feb. 08, 2013

**Publication Date:** Mar. 15, 2005

**Notice of Allowance Date:** Jun. 07, 2005

**Date Cancelled:** Feb. 08, 2013

## Mark Information

**Mark Literal Elements:** TRUMP UNIVERSITY

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

## Goods and Services

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (..) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Educational services in the nature of conducting on-line courses in the fields of business and real estate

**International Class(es):** 041 - Primary Class

**U.S Class(es):** 100, 101, 107

**Class Status:** SECTION 8 - CANCELLED

**Basis:** 1(a)

**First Use:** May 23, 2005

**Use in Commerce:** May 23, 2005

## Basis Information (Case Level)

**Filed Use:** No

**Currently Use:** Yes

**Amended Use:** No

**Filed ITU:** Yes

**Currently ITU:** No

**Amended ITU:** No

**Filed 44D:** No

**Currently 44D:** No

**Amended 44D:** No

**Filed 44E:** No

**Currently 44E:** No

**Amended 44E:** No

**Filed 66A:** No

**Currently 66A:** No

**Filed No Basis:** No

**Currently No Basis:** No



## Current Owner(s) Information

**Owner Name:** Trump, Donald J.

**Owner Address:** 725 Fifth Avenue  
New York, NEW YORK UNITED STATES 100222519

**Legal Entity Type:** INDIVIDUAL

**Citizenship:** UNITED STATES

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Tamar Niv Bessinger

### Correspondent

**Correspondent Name/Address:** Tamar Niv Bessinger  
Fross Zelnick Lehrman & Zissu, P.C.  
866 United Nations Plaza  
New York, NEW YORK UNITED STATES 10017

### Domestic Representative - Not Found

## Prosecution History

| Date          | Description                               | Proceeding Number |
|---------------|---|-------------------|
| Feb. 08, 2013 | CANCELLED SEC. 8 (6-YR)                   |                   |
| Jul. 11, 2008 | ATTORNEY REVOKED AND/OR APPOINTED         |                   |
| Jul. 11, 2008 | TEAS REVOKE/APPOINT ATTORNEY RECEIVED     |                   |
| Jul. 04, 2006 | REGISTERED-PRINCIPAL REGISTER             |                   |
| May 18, 2006  | LAW OFFICE REGISTRATION REVIEW COMPLETED  | 69350             |
| May 12, 2006  | ASSIGNED TO LIE                           | 69350             |
| May 09, 2006  | ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED |                   |
| Apr. 05, 2006 | STATEMENT OF USE PROCESSING COMPLETE      | 70565             |
| Dec. 05, 2005 | USE AMENDMENT FILED                       | 70565             |
| Dec. 05, 2005 | TEAS STATEMENT OF USE RECEIVED            |                   |
| Jun. 07, 2005 | NOA MAILED - SOU REQUIRED FROM APPLICANT  |                   |
| Mar. 15, 2005 | PUBLISHED FOR OPPOSITION                  |                   |
| Feb. 23, 2005 | NOTICE OF PUBLICATION                     |                   |
| Dec. 30, 2004 | LAW OFFICE PUBLICATION REVIEW COMPLETED   | 59272             |
| Dec. 17, 2004 | ASSIGNED TO LIE                           | 59272             |
| Dec. 11, 2004 | APPROVED FOR PUB - PRINCIPAL REGISTER     |                   |
| Dec. 11, 2004 | ASSIGNED TO EXAMINER                      | 77300             |
| Aug. 12, 2004 | NEW APPLICATION ENTERED IN TRAM           |                   |

## TM Staff and Location Information

### TM Staff Information - None

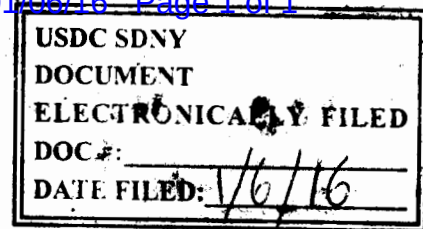
### File Location

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** May 23, 2006

## **Exhibit B**

Summary Order in *Trump Your Competition, Inc.*  
*v. Donald J. Trump*, dated January 6, 2016, 15  
Misc. 00400 (S.D.N.Y.)



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
TRUMP YOUR COMPETITION, INC,

Plaintiff,

-against-

DONALD J. TRUMP,

Defendant.  
----- X

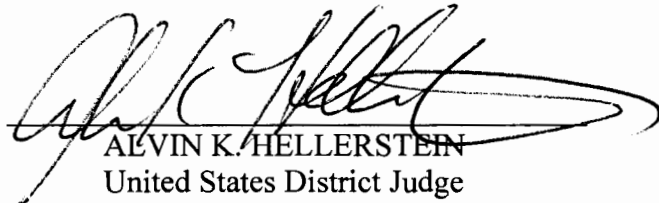
**SUMMARY ORDER**

15 MC. 400 (P1)

ALVIN K. HELLERSTEIN, U.S.D.J.:

Plaintiff Trump Your Competition, Inc. moves to compel a deposition of Defendant Donald J. Trump in relation to a proceeding currently pending before the Trademark Trial and Appeal Board. Defendant opposes the motion and moves for a protective order. As stated on the record in the hearing on January 6, 2016, Plaintiff has failed to identify any information that it seeks from Mr. Trump relevant to that proceeding. I accordingly grant Defendant's motion for a protective order and deny Plaintiff's motion to compel the deposition.

Dated: New York, New York  
January 6, 2016

  
ALVIN K. HELLERSTEIN  
United States District Judge

## Exhibit C

Transcript of the Order of the Honorable Alvin  
K. Hellerstein in *Trump Your Competition, Inc.*  
*v. Donald J. Trump*, dated January 6, 2016, 15  
Misc. 00400 (S.D.N.Y.)

G16etruc

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 TRUMP YOUR COMPETITION, INC.,

4 Plaintiff,

5 v.

15 MC 400 (AKH)

6 DONALD TRUMP,

7 Defendant.

8 -----x

9 January 6, 2016

10 2:41 p.m.

11 Before:

12 HON. ALVIN K. HELLERSTEIN,

13 District Judge

14 APPEARANCES

15 KLEINBERG KAPLAN WOLFF & COHEN, PC

16 Attorneys for Plaintiff

17 BY: NETRA SREEPRAKASH

NORRIS WOLFF

18 HUGHES HUBBARD & REED, LLP

19 Attorneys for Defendant

20 BY: DANIEL H. WEINER

LENA SALTOS

21 ALSO PRESENT: ALAN GARTEN, Executive Vice President and  
22 General Counsel of The Trump Organization

(212) 805-0300

G16etruc

1 (Case called)

2 MS. SREEPRAKASH: Good afternoon, your Honor. Netra  
3 Sreeprakash from Kleinberg, Kaplan, Wolff & Cohen. With me is  
4 Mr. Norris Wolff.

5 MR. WEINER: Good afternoon, your Honor. Dan Weiner  
6 of Hughes, Hubbard & Reed. With me is my colleague, Lena  
7 Saltos, and to her right is Alan Garten, who's the Executive  
8 Vice President and General Counsel of The Trump Organization.

9 THE COURT: Thank you very much.

10 Let me state at the outset that Mr. Wolff and I have  
11 been friends for some time. We've met at various federal bar  
12 council meetings, and his wife and mine became friends as well.  
13 There's nothing, however, that causes me to want to recuse  
14 myself, nor will I recuse myself. But I want to let Mr. Weiner  
15 and all counsel know about this.

16 MR. WEINER: Your Honor, I was only going to  
17 compliment your choice of friends.

18 THE COURT: All right. So who's going to argue this,  
19 Ms. Sreeprakash?

20 MS. SREEPRAKASH: Yes, your Honor.

21 THE COURT: Please take the podium and tell me why you  
22 need the deposition, or why should there be a deposition of  
23 Mr. Trump.

24 MS. SREEPRAKASH: Thank you, your Honor.

25 I'm not going to disclose the trial strategy of my

(212) 805-0300



G16etruc

1 cocounsel.

2 THE COURT: You may have to, if you want the  
3 deposition.

4 MS. SREEPRAKASH: I will do it to the extent the Court  
5 requires me to, but the fact is --

6 THE COURT: If you don't, you won't get the relief.  
7 So you choose.

8 MS. SREEPRAKASH: Your Honor, opposing counsel has  
9 searched cases throughout the country, including Alabama,  
10 Pennsylvania, Rhode Island cases. Not a single one permits a  
11 plaintiff or any party that initiated a proceeding to avoid  
12 sitting for a deposition or for trial testimony. What  
13 Mr. Trump is asking the Court to do is highly unusual. Not a  
14 single case, your Honor, in this country has done this, as far  
15 as I know. And they have not cited a case to the contrary.

16 THE COURT: It's not unusual. I've experienced this  
17 many times in my practice, in 38 years before I became a judge,  
18 and I've experienced it here as a judge as well.

19 The question is: Why do you need him? What's he  
20 going to add to the information you already have?

21 MS. SREEPRAKASH: My cocounsel at the TTAB proceeding  
22 has certain theories that he'd like to flesh out with  
23 Mr. Trump, and one of them is -- this was hinted at in the  
24 deposition of Mr. Garten.

25 THE COURT: It was what?

(212) 805-0300

G16etruc

1 MS. SREEPRAKASH: One of them was hinted at in the  
2 deposition of Mr. Garten. So he would like to inquire about  
3 certain proceedings in which Mr. Trump has been accused of  
4 conduct that might amount to unclean hands. And only Mr. Trump  
5 can testify as to those matters. His son can't, and his  
6 attorney certainly can't, especially given the privilege that  
7 he's asserted.

8 THE COURT: What kinds of conduct are you talking  
9 about?

10 MS. SREEPRAKASH: There are proceedings involving for  
11 example, your Honor, Trump University, where Mr. Trump has been  
12 alleged to have participated in a scheme to defraud students  
13 who took courses to try to learn to be an excellent investor,  
14 like he claims to be.

15 THE COURT: Anything else?

16 MS. SREEPRAKASH: There are other cases, and I believe  
17 the New York Attorney General has brought a case against  
18 Mr. Trump.

19 THE COURT: It's a complete fishing expedition.

20 MR. WOLFF: Your Honor, I had not intended to speak,  
21 but may I?

22 THE COURT: Then you shouldn't, Mr. Wolff.  
23 Ms. Sreeprakash can consult with you, if she wants to.

24 MS. SREEPRAKASH: Yes. Another thing is, your Honor,  
25 that this is a trial deposition. And the trial period for

(212) 805-0300

G16etruc

1 Mr. Trump included the deposition of Mr. Garten. And during  
2 that deposition Mr. Garten testified, when prompted by his  
3 counsel, concerning Mr. Trump's motivations, including things  
4 about how he is competitive, likes to win cases. They've put  
5 that into issue in this trial.

6 THE COURT: So what?

7 MS. SREEPRAKASH: We're entitled --

8 THE COURT: If he's right, he's right. If he's wrong,  
9 he's wrong. How can we test that? Because the issue is  
10 likelihood of confusion. The issue in a trademark dispute is  
11 likelihood of confusion.

12 MS. SREEPRAKASH: Right. But there is also -- we're  
13 entitled to test their assumption. We're entitled to test  
14 their assumption that he has no unique knowledge. There is  
15 case law as to that. We're entitled to test his claims that  
16 Mr. Trump likes to compete with people. Clearly it's an  
17 attempt to argue that our client's mark is somehow infringing  
18 on their rights because Mr. Trump is competitive.

19 THE COURT: Unless you show there's a deficiency of  
20 information that only Mr. Trump has, I'm not going to let you  
21 have his deposition.

22 MS. SREEPRAKASH: Your Honor, can I consult with my  
23 colleague for a moment?

24 THE COURT: Yes. (Pause)

25 MS. SREEPRAKASH: Your Honor, the likelihood of

(212) 805-0300

G16etruc

1 confusion issue has already been addressed by the USPTO in  
2 approving the registration in 2006, when my client first  
3 registered it, my client's principal shareholder first  
4 registered the mark, and again, more recently when it  
5 published -- before it published the mark.

6 Mr. Trump, we argue, waived his right to oppose the  
7 registration when he failed to oppose the registration back in  
8 2005 and 2006.

9 THE COURT: That's an argument you'll carry out in the  
10 trademark office.

11 MS. SREEPRAKASH: That is, your Honor. But we're  
12 entitled to test it. We deposed Mr. Garten about that, but he  
13 said he was not Mr. Trump's counsel at that time. We're  
14 entitled to know who waived right to oppose back in 2006. And  
15 the fact is, many of those marks weren't even registered until  
16 after Trump Your Competition's mark was registered in 2006.

17 THE COURT: Anything else?

18 MS. SREEPRAKASH: Your Honor, that's the bulk of it.

19 But I just want to point out, your Honor, before you  
20 issue any kind of --

21 THE COURT: I want to hear Mr. Weiner. I'll give you  
22 another chance.

23 Mr. Weiner, do you represent that Mr. Trump will not  
24 be testifying in that proceeding?

25 MR. WEINER: Yes, your Honor, he will not be.

(212) 805-0300



G16etruc

1 THE COURT: You will not call him?

2 MR. WEINER: We will not call him. He will not  
3 testify.

4 In the TTAB proceeding, your Honor is right, what's at  
5 issue there -- the witnesses that we've designated are  
6 Mr. Garten, who's sitting right here, and Eric Trump, who are  
7 the two people in The Trump Organization who actually handle  
8 the 500 trademarks. And, your Honor --

9 THE COURT: That doesn't preclude a deposition of  
10 Mr. Trump if he has anything to offer. So you're telling me he  
11 won't be called; he doesn't have anything to offer. And I have  
12 not heard anything that would suggest that his information can  
13 lead to relevant information that otherwise would not be  
14 available.

15 MR. WEINER: Then, your Honor, I'm smart enough to sit  
16 down. Thank you.

17 THE COURT: Anything else, Ms. Sreeprakash?

18 MS. SREEPRAKASH: Yes, your Honor.

19 Mr. Trump's declaration, which was submitted in  
20 connection with this miscellaneous proceeding, does not state  
21 that he does not have relevant knowledge, which is a glaring  
22 omission. If he doesn't have any knowledge, then he could have  
23 sworn to that before this Court. But he failed to do that,  
24 your Honor.

25 THE LAW CLERK: Do you all have copies of your

(212) 805-0300

G16etruc

1 exhibits, including the affidavit?

2 MR. WEINER: I can hand up a copy.

3 THE COURT: Please.

4 MR. WEINER: Only thing I lack is a clip.

5 THE COURT: We have the CDs, nothing else.

6 MR. WEINER: The declaration of Mr. Trump is  
7 Exhibit A.

8 THE COURT: Mr. Trump is not putting forward any  
9 information here that's relevant to the case. That will not be  
10 a basis for taking his deposition.

11 MS. SREEPRAKASH: But, your Honor, he did not state  
12 that he has no relevant knowledge. And he is the plaintiff in  
13 this action. He initiated this action. We're entitled to  
14 discover whether he sustained any damages during this time. We  
15 don't believe he has.

16 THE COURT: The motion to compel is denied. The  
17 motion for protective order is granted. There is no  
18 information that's been identified to me that would be usefully  
19 available from Mr. Trump that couldn't otherwise be obtained.  
20 And I see no point for the deposition, other than to harass him  
21 in the context of a presidential campaign in which he's  
22 involved.

23 So that will dispose of the motion. Thank you.

24 MR. WEINER: Thank you, your Honor.

25 (Adjourned)

(212) 805-0300



## **Exhibit D**

Printouts from the electronic database records of the U.S. Patent and Trademark Office showing the status and title of the TRUMP Registrations

**Generated on:** This page was generated by TSDR on 2016-05-23 08:51:30 EDT

**Mark:** TRUMP

TRUMP

**US Serial Number:** 86625613

**Application Filing Date:** May 11, 2015

**US Registration Number:** 4859780

**Registration Date:** Nov. 24, 2015

**Filed as TEAS RF:** Yes

**Currently TEAS RF:** Yes

**Register:** Principal

**Mark Type:** Service Mark

**Status:** A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

**Status Date:** Apr. 12, 2016

**Publication Date:** Sep. 08, 2015

## Mark Information

**Mark Literal Elements:** TRUMP

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

**Name Portrait Consent:** The name "TRUMP" identifies a living individual whose consent is of record.

## Related Properties Information

**Claimed Ownership of US Registrations:** 3391095, 3526411, 4087954

## Goods and Services

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Commercial information and advice for consumers; online and retail store services featuring golf accessories

**International Class(es):** 035 - Primary Class

**U.S Class(es):** 100, 101, 102

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Nov. 01, 2009

**Use in Commerce:** Nov. 01, 2009

**For:** Golf course and club house services; golf courses; entertainment in the nature of golf tournaments; golf instruction; conducting of professional golf competitions; social club services, namely, arranging, organizing, and hosting social events, get-togethers, and parties for club members

**International Class(es):** 041 - Primary Class

**U.S Class(es):** 100, 101, 107

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** May 1997

**Use in Commerce:** May 1997

## Basis Information (Case Level)

|                           |                               |                        |
|---------------------------|-------------------------------|------------------------|
| <b>Filed Use:</b> Yes     | <b>Currently Use:</b> Yes     | <b>Amended Use:</b> No |
| <b>Filed ITU:</b> No      | <b>Currently ITU:</b> No      | <b>Amended ITU:</b> No |
| <b>Filed 44D:</b> No      | <b>Currently 44D:</b> No      | <b>Amended 44D:</b> No |
| <b>Filed 44E:</b> No      | <b>Currently 44E:</b> No      | <b>Amended 44E:</b> No |
| <b>Filed 66A:</b> No      | <b>Currently 66A:</b> No      |                        |
| <b>Filed No Basis:</b> No | <b>Currently No Basis:</b> No |                        |

## Current Owner(s) Information

**Owner Name:** DTTM OPERATIONS LLC  
**Owner Address:** 725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022  
UNITED STATES  
**Legal Entity Type:** LIMITED LIABILITY COMPANY  
**State or Country Where Organized:** DELAWARE

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Patrice P. Jean  
**Docket Number:** 31842-01000  
**Attorney Primary Email Address:** [trademarks@hugheshubbard.com](mailto:trademarks@hugheshubbard.com)  
**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** DTTM OPERATIONS LLC  
725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022  
UNITED STATES  
**Phone:** (212) 837-6847  
**Fax:** (212) 299-6051  
**Correspondent e-mail:** [trademarks@hugheshubbard.com](mailto:trademarks@hugheshubbard.com)  
**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**

## Prosecution History

| Date          | Description  | Proceeding Number |
|---------------|--|-------------------|
| Apr. 12, 2016 | CANCELLATION INSTITUTED NO. 999999                             | 63494             |
| Mar. 30, 2016 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP                    |                   |
| Feb. 03, 2016 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP                    |                   |
| Jan. 27, 2016 | REVIEW OF CORRESPONDENCE COMPLETE - INFORMATION MADE OF RECORD | 89122             |
| Jan. 22, 2016 | TEAS WITHDRAWAL OF ATTORNEY RECEIVED-FIRM RETAINS              |                   |
| Nov. 24, 2015 | REGISTERED-PRINCIPAL REGISTER                                  |                   |
| Sep. 08, 2015 | OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED             |                   |
| Sep. 08, 2015 | PUBLISHED FOR OPPOSITION                                       |                   |
| Aug. 19, 2015 | NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED                 |                   |
| Jul. 31, 2015 | LAW OFFICE PUBLICATION REVIEW COMPLETED                        | 73797             |
| Jul. 28, 2015 | ASSIGNED TO LIE  | 73797             |
| Jul. 16, 2015 | APPROVED FOR PUB - PRINCIPAL REGISTER                          |                   |
| Jul. 16, 2015 | EXAMINER'S AMENDMENT ENTERED                                   | 88888             |
| Jul. 16, 2015 | NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED                   | 6328              |
| Jul. 16, 2015 | EXAMINERS AMENDMENT E-MAILED                                   | 6328              |
| Jul. 16, 2015 | EXAMINERS AMENDMENT -WRITTEN                                   | 67516             |
| Jul. 15, 2015 | ASSIGNED TO EXAMINER   | 67516             |
| Jun. 17, 2015 | ATTORNEY REVOKED AND/OR APPOINTED                              |                   |
| Jun. 17, 2015 | TEAS REVOKE/APPOINT ATTORNEY RECEIVED                          |                   |



Jun. 16, 2015 ASSIGNED TO EXAMINER  
May 20, 2015 NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM  
May 14, 2015 NEW APPLICATION ENTERED IN TRAM

68110

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Nov. 24, 2015

## Assignment Abstract Of Title Information

### Summary

**Total Assignments:** 1

**Registrant:** Donald J. Trump

### Assignment 1 of 1

**Conveyance:** ASSIGNS THE ENTIRE INTEREST

**Reel/Frame:** [5718/0583](#)

**Pages:** 5

**Date Recorded:** Jan. 28, 2016

**Supporting Documents:** [assignment-tm-5718-0583.pdf](#)

### Assignor

**Name:** [TRUMP, DONALD J.](#)

**Execution Date:** Jan. 25, 2016

**Legal Entity Type:** INDIVIDUAL

**Citizenship:** UNITED STATES

### Assignee

**Name:** [DTTM OPERATIONS LLC](#)

**Legal Entity Type:** LIMITED LIABILITY COMPANY

**State or Country Where Organized:** DELAWARE

**Address:** 725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022

### Correspondent

**Correspondent Name:** PATRICE P. JEAN

**Correspondent Address:** ONE BATTERY PARK PLAZA  
NEW YORK, NY 10004

### Domestic Representative - Not Found

## Proceedings

### Summary

**Number of Proceedings:** 1

### Type of Proceeding: Cancellation

**Proceeding Number:** [92063494](#)

**Filing Date:** Apr 11, 2016

**Status:** Pending

**Status Date:** Apr 11, 2016

**Interlocutory Attorney:** GEORGE POLOGEORGIS

### Defendant

**Name:** DTTM Operations LLC

**Correspondent Address:** DTTM OPERATIONS LLC  
725 FIFTH AVENUE  
NEW YORK NY , 10022  
UNITED STATES

### Associated marks

| Mark  | Application Status   | Serial Number            | Registration Number     |
|-------|----------------------|--------------------------|-------------------------|
| TRUMP | Cancellation Pending | <a href="#">86625613</a> | <a href="#">4859780</a> |
| TRUMP | Cancellation Pending | <a href="#">86644455</a> | <a href="#">4874427</a> |

|       |                      |                          |                         |
|-------|----------------------|--------------------------|-------------------------|
| TRUMP | Cancellation Pending | <a href="#">86143441</a> | <a href="#">4813593</a> |
| TRUMP | Cancellation Pending | <a href="#">85348418</a> | <a href="#">4087954</a> |
| TRUMP | Cancellation Pending | <a href="#">85135258</a> | <a href="#">4462986</a> |
| TRUMP | Cancellation Pending | <a href="#">78884538</a> | <a href="#">3360783</a> |
| TRUMP | Cancellation Pending | <a href="#">77475927</a> | <a href="#">3687022</a> |

**Plaintiff(s)**

**Name:** Prospector Capital Partners, Inc.

**Correspondent** ROD UNDERHILL

**Address:** PROSPECTOR CAPITAL PARTNERS INC  
PO BOX 1238  
JULIAN CA , 92036  
UNITED STATES

**Correspondent e-mail:** [MP3Rod@aol.com](mailto:MP3Rod@aol.com)

**Associated marks**

| Mark                   | Application Status | Serial Number            | Registration Number     |
|------------------------|--------------------|--------------------------|-------------------------|
| TRUMP YOUR COMPETITION | Registered         | <a href="#">86116800</a> | <a href="#">4948838</a> |

**Prosecution History**

| Entry Number | History Text                             | Date         | Due Date     |
|--------------|--|--------------|--------------|
| 1            | FILED AND FEE                            | Apr 11, 2016 |              |
| 2            | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Apr 12, 2016 | May 22, 2016 |
| 3            | PENDING, INSTITUTED                      | Apr 12, 2016 |              |

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**Mark:** TRUMP

TRUMP

**US Serial Number:** 86644455

**Application Filing Date:** May 28, 2015

**US Registration Number:** 4874427

**Registration Date:** Dec. 22, 2015

**Filed as TEAS RF:** Yes

**Currently TEAS RF:** Yes

**Register:** Principal

**Mark Type:** Service Mark

**Status:** A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

**Status Date:** Apr. 12, 2016

**Publication Date:** Oct. 06, 2015

## Mark Information

**Mark Literal Elements:** TRUMP

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

**Name Portrait Consent:** "TRUMP" identifies Donald J. Trump, a living individual whose consent is of record.

## Goods and Services

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Political action committee services, namely, promoting public awareness of political issues

**International Class(es):** 035 - Primary Class

**U.S Class(es):** 100, 101, 102

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Apr. 12, 2015

**Use in Commerce:** Apr. 12, 2015

**For:** Fundraising in the field of politics

**International Class(es):** 036 - Primary Class

**U.S Class(es):** 100, 101, 102

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** May 22, 2015

**Use in Commerce:** May 22, 2015

## Basis Information (Case Level)

**Filed Use:** Yes

**Currently Use:** Yes

**Amended Use:** No

**Filed ITU:** No

**Currently ITU:** No

**Amended ITU:** No

**Filed 44D:** No

**Currently 44D:** No

**Amended 44D:** No

**Filed 44E:** No

**Currently 44E:** No

**Amended 44E:** No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

## Current Owner(s) Information

**Owner Name:** DTTM OPERATIONS LLC

**Owner Address:** 725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022  
UNITED STATES

**Legal Entity Type:** LIMITED LIABILITY COMPANY

**State or Country** DELAWARE  
**Where Organized:**

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Patrice P. Jean

**Docket Number:** 31842-01000

**Attorney Primary** [trademarks@hugheshubbard.com](mailto:trademarks@hugheshubbard.com)  
**Email Address:**

**Attorney Email** Yes  
**Authorized:**

### Correspondent

**Correspondent** DTTM OPERATIONS LLC  
**Name/Address:** 725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022  
UNITED STATES

**Phone:** (212) 837-6847

**Fax:** (212) 299-6051

**Correspondent e-mail:** [trademarks@hugheshubbard.com](mailto:trademarks@hugheshubbard.com)

**Correspondent e-mail** Yes  
**Authorized:**

### Domestic Representative - Not Found

## Prosecution History

| Date          | Description  | Proceeding Number |
|---------------|--|-------------------|
| Apr. 12, 2016 | CANCELLATION INSTITUTED NO. 999999                             | 63494             |
| Mar. 30, 2016 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP                    |                   |
| Feb. 03, 2016 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP                    |                   |
| Jan. 20, 2016 | REVIEW OF CORRESPONDENCE COMPLETE - INFORMATION MADE OF RECORD | 89122             |
| Jan. 20, 2016 | TEAS WITHDRAWAL OF ATTORNEY RECEIVED-FIRM RETAINS              |                   |
| Dec. 22, 2015 | REGISTERED-PRINCIPAL REGISTER                                  |                   |
| Oct. 06, 2015 | OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED             |                   |
| Oct. 06, 2015 | PUBLISHED FOR OPPOSITION                                       |                   |
| Sep. 16, 2015 | NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED                 |                   |
| Sep. 03, 2015 | LAW OFFICE PUBLICATION REVIEW COMPLETED                        | 68171             |
| Sep. 03, 2015 | ASSIGNED TO LIE  | 68171             |
| Aug. 14, 2015 | APPROVED FOR PUB - PRINCIPAL REGISTER                          |                   |
| Aug. 14, 2015 | EXAMINER'S AMENDMENT ENTERED                                   | 88888             |
| Aug. 14, 2015 | NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED                   | 6328              |
| Aug. 14, 2015 | EXAMINERS AMENDMENT E-MAILED                                   | 6328              |
| Aug. 14, 2015 | EXAMINERS AMENDMENT -WRITTEN                                   | 82423             |
| Aug. 13, 2015 | NOTIFICATION OF PRIORITY ACTION E-MAILED                       | 6326              |
| Aug. 13, 2015 | PRIORITY ACTION E-MAILED                                       | 6326              |
| Aug. 13, 2015 | PRIORITY ACTION WRITTEN  | 82423             |
| Aug. 06, 2015 | ASSIGNED TO EXAMINER   | 82423             |
| Jun. 16, 2015 | ASSIGNED TO EXAMINER   | 68110             |
| Jun. 04, 2015 | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM           |                   |
| Jun. 01, 2015 | NEW APPLICATION ENTERED IN TRAM                                |                   |

## TM Staff and Location Information

TM Staff Information - None

**File Location****Current Location:** PUBLICATION AND ISSUE SECTION**Date in Location:** Dec. 22, 2015**Assignment Abstract Of Title Information****Summary****Total Assignments:** 1**Registrant:** Trump, Donald J.**Assignment 1 of 1****Conveyance:** ASSIGNS THE ENTIRE INTEREST**Reel/Frame:** [5718/0583](#)**Pages:** 5**Date Recorded:** Jan. 28, 2016**Supporting Documents:** [assignment-tm-5718-0583.pdf](#)**Assignor****Name:** [TRUMP, DONALD J.](#)**Execution Date:** Jan. 25, 2016**Legal Entity Type:** INDIVIDUAL**Citizenship:** UNITED STATES**Assignee****Name:** [DTTM OPERATIONS LLC](#)**Legal Entity Type:** LIMITED LIABILITY COMPANY**State or Country Where Organized:** DELAWARE**Address:** 725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022**Correspondent****Correspondent Name:** PATRICE P. JEAN**Correspondent Address:** ONE BATTERY PARK PLAZA  
NEW YORK, NY 10004**Domestic Representative - Not Found****Proceedings****Summary****Number of Proceedings:** 1**Type of Proceeding: Cancellation****Proceeding Number:** [92063494](#)**Filing Date:** Apr 11, 2016**Status:** Pending**Status Date:** Apr 11, 2016**Interlocutory Attorney:** GEORGE POLOGEORGIS**Defendant****Name:** DTTM Operations LLC**Correspondent Address:** DTTM OPERATIONS LLC  
725 FIFTH AVENUE  
NEW YORK NY , 10022  
UNITED STATES**Associated marks**

| Mark  | Application Status   | Serial Number            | Registration Number     |
|-------|----------------------|--------------------------|-------------------------|
| TRUMP | Cancellation Pending | <a href="#">86625613</a> | <a href="#">4859780</a> |
| TRUMP | Cancellation Pending | <a href="#">86644455</a> | <a href="#">4874427</a> |
| TRUMP | Cancellation Pending | <a href="#">86143441</a> | <a href="#">4813593</a> |
| TRUMP | Cancellation Pending | <a href="#">85348418</a> | <a href="#">4087954</a> |
| TRUMP | Cancellation Pending | <a href="#">85135258</a> | <a href="#">4462986</a> |
| TRUMP | Cancellation Pending | <a href="#">78884538</a> | <a href="#">3360783</a> |
| TRUMP | Cancellation Pending | <a href="#">77475927</a> | <a href="#">3687022</a> |

**Plaintiff(s)**

**Name:** Prospector Capital Partners, Inc.

**Correspondent Address:** ROD UNDERHILL  
PROSPECTOR CAPITAL PARTNERS INC  
PO BOX 1238  
JULIAN CA , 92036  
UNITED STATES

**Correspondent e-mail:** [MP3Rod@aol.com](mailto:MP3Rod@aol.com)

**Associated marks**

| Mark                   | Application Status | Serial Number            | Registration Number     |
|------------------------|--------------------|--------------------------|-------------------------|
| TRUMP YOUR COMPETITION | Registered         | <a href="#">86116800</a> | <a href="#">4948838</a> |

| Prosecution History |  |              |              |
|---------------------|--|--------------|--------------|
| Entry Number        | History Text                             | Date         | Due Date     |
| 1                   | FILED AND FEE                            | Apr 11, 2016 |              |
| 2                   | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Apr 12, 2016 | May 22, 2016 |
| 3                   | PENDING, INSTITUTED                      | Apr 12, 2016 |              |

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**Mark:** TRUMP

TRUMP

**US Serial Number:** 86143441

**Application Filing Date:** Dec. 13, 2013

**US Registration Number:** 4813593

**Registration Date:** Sep. 15, 2015

**Register:** Principal

**Mark Type:** Service Mark

**Status:** A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

**Status Date:** Apr. 12, 2016

**Publication Date:** Apr. 22, 2014

**Notice of Allowance Date:** Jun. 17, 2014

## Mark Information

**Mark Literal Elements:** TRUMP

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

**Name Portrait Consent:** The name "TRUMP" identifies a living individual whose consent is of record.

## Goods and Services

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*...\* identify additional (new) wording in the goods/services.

**For:** Limousine services

**International Class(es):** 039 - Primary Class

**U.S Class(es):** 100, 105

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Oct. 06, 2014

**Use in Commerce:** Oct. 06, 2014

## Basis Information (Case Level)

**Filed Use:** No

**Currently Use:** Yes

**Amended Use:** No

**Filed ITU:** Yes

**Currently ITU:** No

**Amended ITU:** No

**Filed 44D:** No

**Currently 44D:** No

**Amended 44D:** No

**Filed 44E:** No

**Currently 44E:** No

**Amended 44E:** No

**Filed 66A:** No

**Currently 66A:** No

**Filed No Basis:** No

**Currently No Basis:** No

## Current Owner(s) Information

**Owner Name:** DTTM OPERATIONS LLC

**Owner Address:** 725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: DELAWARE

## Attorney/Correspondence Information

### Attorney of Record

Attorney Name: Patrice P. Jean

Docket Number: 31842-01000

Attorney Primary Email Address: [trademarks@hugheshubbard.com](mailto:trademarks@hugheshubbard.com)

Attorney Email Authorized: Yes

### Correspondent

Correspondent Name/Address: DTTM OPERATIONS LLC  
725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022  
UNITED STATES

Phone: (212) 837-6847

Fax: (212) 299-6051

Correspondent e-mail: [trademarks@hugheshubbard.com](mailto:trademarks@hugheshubbard.com)

Correspondent e-mail Authorized: Yes

### Domestic Representative - Not Found

## Prosecution History

| Date          | Description  | Proceeding Number |
|---------------|--|-------------------|
| Apr. 12, 2016 | CANCELLATION INSTITUTED NO. 999999                             | 63494             |
| Mar. 30, 2016 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP                    |                   |
| Feb. 03, 2016 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP                    |                   |
| Jan. 27, 2016 | REVIEW OF CORRESPONDENCE COMPLETE - INFORMATION MADE OF RECORD | 89122             |
| Jan. 22, 2016 | TEAS WITHDRAWAL OF ATTORNEY RECEIVED-FIRM RETAINS              |                   |
| Sep. 15, 2015 | REGISTERED-PRINCIPAL REGISTER                                  |                   |
| Aug. 14, 2015 | NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED              |                   |
| Aug. 13, 2015 | ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED                      |                   |
| Aug. 12, 2015 | EXAMINER'S AMENDMENT ENTERED                                   | 88888             |
| Aug. 12, 2015 | NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED                   |                   |
| Aug. 12, 2015 | EXAMINERS AMENDMENT E-MAILED                                   |                   |
| Aug. 12, 2015 | SU-EXAMINER'S AMENDMENT WRITTEN                                | 67512             |
| Aug. 04, 2015 | PAPER RECEIVED   |                   |
| Aug. 02, 2015 | STATEMENT OF USE PROCESSING COMPLETE                           | 61813             |
| Jul. 29, 2015 | USE AMENDMENT FILED  | 61813             |
| Jul. 29, 2015 | TEAS STATEMENT OF USE RECEIVED                                 |                   |
| Jul. 22, 2015 | NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED               |                   |
| Jul. 21, 2015 | EXTENSION 2 GRANTED  | 61813             |
| Jun. 17, 2015 | EXTENSION 2 FILED  | 61813             |
| Jul. 15, 2015 | CASE ASSIGNED TO INTENT TO USE PARALEGAL                       | 61813             |
| Jun. 17, 2015 | ATTORNEY REVOKED AND/OR APPOINTED                              |                   |
| Jun. 17, 2015 | TEAS REVOKE/APPOINT ATTORNEY RECEIVED                          |                   |
| Jun. 17, 2015 | TEAS EXTENSION RECEIVED  |                   |
| Dec. 17, 2014 | NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED               |                   |
| Dec. 15, 2014 | EXTENSION 1 GRANTED  | 98765             |
| Dec. 15, 2014 | EXTENSION 1 FILED  | 98765             |
| Dec. 15, 2014 | TEAS EXTENSION RECEIVED  |                   |
| Jun. 17, 2014 | NOA E-MAILED - SOU REQUIRED FROM APPLICANT                     |                   |
| Apr. 22, 2014 | OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED             |                   |
| Apr. 22, 2014 | PUBLISHED FOR OPPOSITION                                       |                   |
| Apr. 02, 2014 | NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED                 |                   |
| Mar. 15, 2014 | LAW OFFICE PUBLICATION REVIEW COMPLETED                        | 73797             |
| Mar. 15, 2014 | ASSIGNED TO LIE  | 73797             |
| Feb. 27, 2014 | APPROVED FOR PUB - PRINCIPAL REGISTER                          |                   |



|               |  |       |
|---------------|--|-------|
| Feb. 25, 2014 | EXAMINER'S AMENDMENT ENTERED                         | 88888 |
| Feb. 25, 2014 | NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED         | 6328  |
| Feb. 25, 2014 | EXAMINERS AMENDMENT E-MAILED                         | 6328  |
| Feb. 25, 2014 | EXAMINERS AMENDMENT -WRITTEN                         | 67512 |
| Feb. 18, 2014 | PAPER RECEIVED                                       |       |
| Feb. 17, 2014 | ASSIGNED TO EXAMINER                                 | 67512 |
| Dec. 28, 2013 | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM |       |
| Dec. 17, 2013 | NEW APPLICATION ENTERED IN TRAM                      |       |

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Aug. 13, 2015

## Assignment Abstract Of Title Information

### Summary

**Total Assignments:** 1

**Registrant:** Donald J. Trump

### Assignment 1 of 1

**Conveyance:** ASSIGNS THE ENTIRE INTEREST

**Reel/Frame:** [5718/0583](#)

**Pages:** 5

**Date Recorded:** Jan. 28, 2016

**Supporting Documents:** [assignment-tm-5718-0583.pdf](#)

### Assignor

**Name:** [TRUMP, DONALD J.](#)

**Execution Date:** Jan. 25, 2016

**Legal Entity Type:** INDIVIDUAL

**Citizenship:** UNITED STATES

### Assignee

**Name:** [DTTM OPERATIONS LLC](#)

**Legal Entity Type:** LIMITED LIABILITY COMPANY

**State or Country Where Organized:** DELAWARE

**Address:** 725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022

### Correspondent

**Correspondent Name:** PATRICE P. JEAN

**Correspondent Address:** ONE BATTERY PARK PLAZA  
NEW YORK, NY 10004

### Domestic Representative - Not Found

## Proceedings

### Summary

**Number of Proceedings:** 1

### Type of Proceeding: Cancellation

**Proceeding Number:** [92063494](#)

**Filing Date:** Apr 11, 2016

**Status:** Pending

**Status Date:** Apr 11, 2016

**Interlocutory Attorney:** GEORGE POLOGEORGIS

### Defendant

**Name:** DTTM Operations LLC

**Correspondent Address:** DTTM OPERATIONS LLC  
725 FIFTH AVENUE  
NEW YORK NY , 10022

## UNITED STATES

## Associated marks

| Mark                | Application Status   | Serial Number            | Registration Number     |
|---------------------|----------------------|--------------------------|-------------------------|
| TRUMP               | Cancellation Pending | <a href="#">86625613</a> | <a href="#">4859780</a> |
| TRUMP               | Cancellation Pending | <a href="#">86644455</a> | <a href="#">4874427</a> |
| TRUMP               | Cancellation Pending | <a href="#">86143441</a> | <a href="#">4813593</a> |
| TRUMP               | Cancellation Pending | <a href="#">85348418</a> | <a href="#">4087954</a> |
| TRUMP               | Cancellation Pending | <a href="#">85135258</a> | <a href="#">4462986</a> |
| TRUMP               | Cancellation Pending | <a href="#">78884538</a> | <a href="#">3360783</a> |
| TRUMP               | Cancellation Pending | <a href="#">77475927</a> | <a href="#">3687022</a> |
| <b>Plaintiff(s)</b> |                      |                          |                         |

**Name:** Prospector Capital Partners, Inc.

**Correspondent** ROD UNDERHILL

**Address:** PROSPECTOR CAPITAL PARTNERS INC  
PO BOX 1238  
JULIAN CA , 92036  
UNITED STATES

**Correspondent e-mail:** [MP3Rod@aol.com](mailto:MP3Rod@aol.com)

## Associated marks

| Mark                       | Application Status                       | Serial Number            | Registration Number     |
|----------------------------|--|--------------------------|-------------------------|
| TRUMP YOUR COMPETITION     | Registered                               | <a href="#">86116800</a> | <a href="#">4948838</a> |
| <b>Prosecution History</b> |  |                          |                         |
| Entry Number               | History Text                             | Date                     | Due Date                |
| 1                          | FILED AND FEE                            | Apr 11, 2016             |                         |
| 2                          | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Apr 12, 2016             | May 22, 2016            |
| 3                          | PENDING, INSTITUTED                      | Apr 12, 2016             |                         |

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**Mark:** TRUMP

TRUMP

**US Serial Number:** 85348418

**Application Filing Date:** Jun. 16, 2011

**US Registration Number:** 4087954

**Registration Date:** Jan. 17, 2012

**Register:** Principal

**Mark Type:** Service Mark

**TM5 Common Status Descriptor:**



LIVE/REGISTRATION/Cancellation/Invalidation Pending

This trademark application has been registered with the Office, but it is currently undergoing a challenge which may result in its removal from the registry.

**Status:** A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

**Status Date:** Apr. 12, 2016

**Publication Date:** Nov. 01, 2011

---

## Mark Information

---

**Mark Literal Elements:** TRUMP

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

**Name Portrait Consent:** The name "TRUMP" identifies a living individual whose consent is of record.

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## Related Properties Information

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**International Registration Number:** 1139194

**International Application(s) / Registration(s) Based on this Property:** A0030638/1139194

**Claimed Ownership of US Registrations:** 2441215, 2892467, 3566654 and others

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## Goods and Services

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**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*...\* identify additional (new) wording in the goods/services.

**For:** Gambling services

**International Class(es):** 041 - Primary Class

**U.S Class(es):** 100, 101, 107

**Class Status:** ACTIVE

**Basis:** 1(a)

First Use: Feb. 1985

Use in Commerce: Feb. 1985

## Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

## Current Owner(s) Information

Owner Name: DTTM OPERATIONS LLC

Owner Address: 725 FIFTH AVENUE  
NEW YORK, NEW YORK UNITED STATES 10022

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: DELAWARE

## Attorney/Correspondence Information

### Attorney of Record

Attorney Name: Patrice P. Jean

Docket Number: 31842-01000

Attorney Primary Email Address: [trademarks@hugheshubbard.com](mailto:trademarks@hugheshubbard.com)

Attorney Email Authorized: Yes

### Correspondent

Correspondent Name/Address: DTTM OPERATIONS LLC  
725 FIFTH AVENUE  
NEW YORK, NEW YORK UNITED STATES 10022

Phone: (212) 837-6847

Fax: (212) 299-6051

Correspondent e-mail: [trademarks@hugheshubbard.com](mailto:trademarks@hugheshubbard.com)

Correspondent e-mail Authorized: Yes

### Domestic Representative - Not Found

## Prosecution History

| Date          | Description  | Proceeding Number |
|---------------|--|-------------------|
| Apr. 12, 2016 | CANCELLATION INSTITUTED NO. 999999                             | 63494             |
| Mar. 30, 2016 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP                    |                   |
| Feb. 03, 2016 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP                    |                   |
| Jan. 27, 2016 | REVIEW OF CORRESPONDENCE COMPLETE - INFORMATION MADE OF RECORD | 89122             |
| Jan. 22, 2016 | TEAS WITHDRAWAL OF ATTORNEY RECEIVED-FIRM RETAINS              |                   |
| Jun. 17, 2015 | ATTORNEY REVOKED AND/OR APPOINTED                              |                   |
| Jun. 17, 2015 | TEAS REVOKE/APPOINT ATTORNEY RECEIVED                          |                   |
| Jan. 17, 2012 | REGISTERED-PRINCIPAL REGISTER                                  |                   |
| Nov. 01, 2011 | OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED             |                   |
| Nov. 01, 2011 | PUBLISHED FOR OPPOSITION                                       |                   |
| Sep. 27, 2011 | APPROVED FOR PUB - PRINCIPAL REGISTER                          |                   |
| Sep. 27, 2011 | ASSIGNED TO EXAMINER   | 76134             |
| Jun. 21, 2011 | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM           |                   |
| Jun. 20, 2011 | NEW APPLICATION ENTERED IN TRAM                                |                   |

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Jan. 17, 2012

# Assignment Abstract Of Title Information

## Summary

Total Assignments: 1

Registrant: Donald J. Trump

### Assignment 1 of 1

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [5718/0583](#)

Pages: 5

Date Recorded: Jan. 28, 2016

Supporting Documents: [assignment-tm-5718-0583.pdf](#)

### Assignor

Name: [TRUMP, DONALD J.](#)

Execution Date: Jan. 25, 2016

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

### Assignee

Name: [DTTM OPERATIONS LLC](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: DELAWARE

Address: 725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022

### Correspondent

Correspondent Name: PATRICE P. JEAN

Correspondent Address: ONE BATTERY PARK PLAZA  
NEW YORK, NY 10004

### Domestic Representative - Not Found

## Proceedings

### Summary

Number of Proceedings: 2

### Type of Proceeding: Cancellation

Proceeding Number: [92063494](#)

Filing Date: Apr 11, 2016

Status: Pending

Status Date: Apr 11, 2016

Interlocutory Attorney: GEORGE POLOGEORGIS

### Defendant

Name: DTTM Operations LLC

Correspondent Address: DTTM OPERATIONS LLC  
725 FIFTH AVENUE  
NEW YORK NY UNITED STATES , 10022

### Associated marks

| Mark  | Application Status   | Serial Number            | Registration Number     |
|-------|----------------------|--------------------------|-------------------------|
| TRUMP | Cancellation Pending | <a href="#">86625613</a> | <a href="#">4859780</a> |
| TRUMP | Cancellation Pending | <a href="#">86644455</a> | <a href="#">4874427</a> |
| TRUMP | Cancellation Pending | <a href="#">86143441</a> | <a href="#">4813593</a> |
| TRUMP | Cancellation Pending | <a href="#">85348418</a> | <a href="#">4087954</a> |
| TRUMP | Cancellation Pending | <a href="#">85135258</a> | <a href="#">4462986</a> |
| TRUMP | Cancellation Pending | <a href="#">78884538</a> | <a href="#">3360783</a> |
| TRUMP | Cancellation Pending | <a href="#">77475927</a> | <a href="#">3687022</a> |

### Plaintiff(s)

Name: Prospector Capital Partners, Inc.

Correspondent Address: ROD UNDERHILL  
PROSPECTOR CAPITAL PARTNERS INC

PO BOX 1238  
JULIAN CA UNITED STATES , 92036

Correspondent e-mail: [MP3Rod@aol.com](mailto:MP3Rod@aol.com)

| Mark | Application Status | Serial Number | Registration Number |
|------|--------------------|---------------|---------------------|
|------|--------------------|---------------|---------------------|

|                        |            |                          |                         |
|------------------------|------------|--------------------------|-------------------------|
| TRUMP YOUR COMPETITION | Registered | <a href="#">86116800</a> | <a href="#">4948838</a> |
|------------------------|------------|--------------------------|-------------------------|

| Prosecution History |  |              |              |
|---------------------|--|--------------|--------------|
| Entry Number        | History Text                             | Date         | Due Date     |
| 1                   | FILED AND FEE                            | Apr 11, 2016 |              |
| 2                   | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Apr 12, 2016 | May 22, 2016 |
| 3                   | PENDING, INSTITUTED                      | Apr 12, 2016 |              |

**Type of Proceeding: Opposition**

Proceeding Number: [91206126](#)

Filing Date: Jul 18, 2012

Status: Terminated

Status Date: Jun 07, 2013

Interlocutory Attorney: CHRISTEN M ENGLISH

**Defendant**

Name: Daniel Muñoz dba Trumpit and Richard Muñoz dba Trumpit

Correspondent Address: DANIEL MUÑOZ  
602 DRAKE STREET  
SAN JOSE CA UNITED STATES , 95125-2220

Correspondent e-mail: [dim82@mailovo.com](mailto:dim82@mailovo.com)

| Mark | Application Status | Serial Number | Registration Number |
|------|--------------------|---------------|---------------------|
|------|--------------------|---------------|---------------------|

|         |   |                          |  |
|---------|---|--------------------------|--|
| TRUMPIT | Abandoned - After Inter-Partes Decision | <a href="#">85442174</a> |  |
|---------|---|--------------------------|--|

**Plaintiff(s)**

Name: Donald J. Trump

Correspondent Address: JAMES D WEINBERGER  
FROSS ZELNICK LEHRMAN & ZISSU PC  
866 UNITED NATIONS PLAZA, 6TH FLOOR  
NEW YORK NY UNITED STATES , 10017

Correspondent e-mail: [jweinberger@fzlz.com](mailto:jweinberger@fzlz.com) , [aleipsic@fzlz.com](mailto:aleipsic@fzlz.com)

| Mark | Application Status | Serial Number | Registration Number |
|------|--------------------|---------------|---------------------|
|------|--------------------|---------------|---------------------|

|  |  |                          |                         |
|--|--|--------------------------|-------------------------|
| TRUMP                                    | Cancellation Pending                         | <a href="#">77475927</a> | <a href="#">3687022</a> |
| TRUMP                                    | Section 8 - Accepted                         | <a href="#">77029020</a> | <a href="#">3728787</a> |
| THE DONALD J. TRUMP SIGNATURE COLLECTION | Section 8 and 15 - Accepted and Acknowledged | <a href="#">78469433</a> | <a href="#">3340910</a> |
| THE TRUMP SPA                            | Renewed                                      | <a href="#">75509028</a> | <a href="#">2383885</a> |
| THE TRUMP SPA AT MAR A LAGO              | Renewed                                      | <a href="#">75511985</a> | <a href="#">2383893</a> |
| TRUMP INTERNATIONAL HOTEL & TOWER        | Renewed                                      | <a href="#">75450936</a> | <a href="#">2226174</a> |
| TRUMP NATIONAL GOLF CLUB                 | Renewed                                      | <a href="#">75306506</a> | <a href="#">2269568</a> |
| TRUMP                                    | Cancellation Pending                         | <a href="#">77157334</a> | <a href="#">3391095</a> |
| TRUMP                                    | Cancellation Pending                         | <a href="#">85348418</a> | <a href="#">4087954</a> |

| Prosecution History |  |              |              |
|---------------------|--|--------------|--------------|
| Entry Number        | History Text                             | Date         | Due Date     |
| 1                   | FILED AND FEE                            | Jul 18, 2012 |              |
| 2                   | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Jul 18, 2012 | Aug 27, 2012 |
| 3                   | PENDING, INSTITUTED                      | Jul 18, 2012 |              |
| 4                   | NOTICE OF DEFAULT                        | Sep 11, 2012 |              |
| 5                   | D'S OPPOSITION/RESPONSE TO MOTION        | Oct 09, 2012 |              |

|    |                                   |              |
|----|-----------------------------------|--------------|
| 6  | P'S OPPOSITION/RESPONSE TO MOTION | Oct 12, 2012 |
| 7  | BOARD'S ORDER TRIAL DATES RESET   | Nov 14, 2012 |
| 8  | W/DRAW OF APPLICATION             | May 22, 2013 |
| 9  | BD DECISION: SUSTAINED            | Jun 07, 2013 |
| 10 | TERMINATED                        | Jun 07, 2013 |

**Generated on:** This page was generated by TSDR on 2016-05-23 08:54:44 EDT

**Mark:** TRUMP



**US Serial Number:** 85135258

**Application Filing Date:** Sep. 22, 2010

**US Registration Number:** 4462986

**Registration Date:** Jan. 07, 2014

**Register:** Principal

**Mark Type:** Trademark

**Status:** A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

**Status Date:** Apr. 12, 2016

**Publication Date:** Mar. 08, 2011

**Notice of Allowance Date:** May 03, 2011

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## Mark Information

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**Mark Literal Elements:** TRUMP

**Standard Character Claim:** No

**Mark Drawing Type:** 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

**Description of Mark:** The mark consists of a heraldic coat of arms consisting of a shield or crest and other designs. A shield appears in the center of the design. The shield contains three lions, two chevrons made of repeating rectangles, and many small orbs with crosses. The shield is topped by a knight's helmet. Above the helmet, an extended arm raises a spear. An organic leaf or mantling design starts from the helmet and falls to frame the shield. Below the shield, there is a banner carrying the name "TRUMP".

**Color(s) Claimed:** Color is not claimed as a feature of the mark.

**Design Search Code(s):** 02.11.07 - Human hands, fingers, arms; Hands; Fingers; Arms  
03.01.01 - Lions  
03.01.24 - Stylized cats, dogs, wolves, foxes, bears, lions, tigers  
05.03.25 - Leaf, single; Other leaves  
09.05.25 - Safety helmets; Caps, swimming; Caps, nurses; Batting helmets; Football helmets; Dunce caps; Helmets, protective; Helmets, military; Helmets, construction; Helmets, athletic  
23.01.02 - Bayonets; Harpoons; Hunting knives; Knives, daggers; Spears  
24.01.02 - Shields or crests with figurative elements contained therein or superimposed thereon  
24.01.03 - Shields or crests with letters, punctuation or inscriptions contained therein or superimposed thereon  
24.03.01 - Orbs; Scepters  
24.09.07 - Advertising, banners; Banners  
25.01.25 - Borders, ornamental; Other framework and ornamental borders  
26.17.12 - Angles (geometric); Chevrons

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## Related Properties Information

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**Claimed Ownership of US Registrations:** 3392370, 3574187, 3712766 and others

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## Goods and Services

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**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and



- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Toothbrush holders; soap dishes; drinking glasses, namely, tumblers; lotion dispensers; soap dispensers; cotton ball jars; trays not of precious metal; ceramic tissue box covers

**International Class(es):** 021 - Primary Class

**U.S Class(es):** 002, 013, 023, 029, 030, 033, 040, 050

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Jun. 2011

**Use in Commerce:** Jun. 2011

**For:** bed blankets; duvets; duvet covers; bed skirts; quilts; pillow shams; comforters; shower curtains; towels; wash cloths

**International Class(es):** 024 - Primary Class

**U.S Class(es):** 042, 050

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Nov. 2010

**Use in Commerce:** Nov. 2010

## Basis Information (Case Level)

**Filed Use:** No

**Currently Use:** Yes

**Amended Use:** No

**Filed ITU:** Yes

**Currently ITU:** No

**Amended ITU:** No

**Filed 44D:** No

**Currently 44D:** No

**Amended 44D:** No

**Filed 44E:** No

**Currently 44E:** No

**Amended 44E:** No

**Filed 66A:** No

**Currently 66A:** No

**Filed No Basis:** No

**Currently No Basis:** No

## Current Owner(s) Information

**Owner Name:** DTTM OPERATIONS LLC

**Owner Address:** 725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022  
UNITED STATES

**Legal Entity Type:** LIMITED LIABILITY COMPANY

**State or Country Where Organized:** DELAWARE

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Patrice P. Jean

**Docket Number:** 31842-01000

**Attorney Primary Email Address:** [trademarks@hugheshubbard.com](mailto:trademarks@hugheshubbard.com)

**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** DTTM OPERATIONS LLC  
725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022  
UNITED STATES

**Phone:** (212) 837-6847

**Fax:** (212) 299-6051

**Correspondent e-mail:** [trademarks@hugheshubbard.com](mailto:trademarks@hugheshubbard.com)

**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**

## Prosecution History

| Date          | Description  | Proceeding Number |
|---------------|--|-------------------|
| Apr. 12, 2016 | CANCELLATION INSTITUTED NO. 999999                             | 63494             |
| Mar. 30, 2016 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP                    |                   |
| Feb. 03, 2016 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP                    |                   |
| Jan. 27, 2016 | REVIEW OF CORRESPONDENCE COMPLETE - INFORMATION MADE OF RECORD | 89122             |

|               |  |       |
|---------------|--|-------|
| Jan. 22, 2016 | TEAS WITHDRAWAL OF ATTORNEY RECEIVED-FIRM RETAINS    |       |
| Jun. 17, 2015 | ATTORNEY REVOKED AND/OR APPOINTED                    |       |
| Jun. 17, 2015 | TEAS REVOKE/APPOINT ATTORNEY RECEIVED                |       |
| Jan. 07, 2014 | REGISTERED-PRINCIPAL REGISTER                        |       |
| Nov. 30, 2013 | NOTICE OF ACCEPTANCE OF STATEMENT OF USE MAILED      |       |
| Nov. 29, 2013 | LAW OFFICE REGISTRATION REVIEW COMPLETED             | 74221 |
| Nov. 25, 2013 | ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED            |       |
| Nov. 04, 2013 | STATEMENT OF USE PROCESSING COMPLETE                 | 66154 |
| Nov. 01, 2013 | USE AMENDMENT FILED                                  | 66154 |
| Nov. 01, 2013 | TEAS STATEMENT OF USE RECEIVED                       |       |
| Apr. 26, 2013 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED       |       |
| Apr. 25, 2013 | EXTENSION 4 GRANTED                                  | 66154 |
| Apr. 04, 2013 | EXTENSION 4 FILED                                    | 66154 |
| Apr. 25, 2013 | CASE ASSIGNED TO INTENT TO USE PARALEGAL             | 66154 |
| Apr. 04, 2013 | TEAS EXTENSION RECEIVED                              |       |
| Nov. 08, 2012 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED       |       |
| Nov. 07, 2012 | EXTENSION 3 GRANTED                                  | 76874 |
| Nov. 03, 2012 | EXTENSION 3 FILED                                    | 76874 |
| Nov. 05, 2012 | TEAS EXTENSION RECEIVED                              |       |
| May 31, 2012  | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED       |       |
| May 30, 2012  | EXTENSION 2 GRANTED                                  | 76874 |
| May 03, 2012  | EXTENSION 2 FILED                                    | 76874 |
| May 24, 2012  | CASE ASSIGNED TO INTENT TO USE PARALEGAL             | 76874 |
| May 03, 2012  | TEAS EXTENSION RECEIVED                              |       |
| Oct. 29, 2011 | NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED       |       |
| Oct. 27, 2011 | EXTENSION 1 GRANTED                                  | 98765 |
| Oct. 27, 2011 | EXTENSION 1 FILED                                    | 98765 |
| Oct. 27, 2011 | TEAS EXTENSION RECEIVED                              |       |
| May 03, 2011  | NOA MAILED - SOU REQUIRED FROM APPLICANT             |       |
| Mar. 08, 2011 | PUBLISHED FOR OPPOSITION                             |       |
| Feb. 16, 2011 | NOTICE OF PUBLICATION                                |       |
| Jan. 29, 2011 | LAW OFFICE PUBLICATION REVIEW COMPLETED              | 74221 |
| Jan. 29, 2011 | ASSIGNED TO LIE                                      | 74221 |
| Dec. 29, 2010 | EXAMINER'S AMENDMENT MAILED                          |       |
| Dec. 29, 2010 | APPROVED FOR PUB - PRINCIPAL REGISTER                |       |
| Dec. 29, 2010 | EXAMINER'S AMENDMENT ENTERED                         | 88888 |
| Dec. 29, 2010 | EXAMINER'S AMENDMENT ENTERED                         | 88888 |
| Dec. 29, 2010 | EXAMINERS AMENDMENT -WRITTEN                         | 68792 |
| Dec. 29, 2010 | ASSIGNED TO EXAMINER                                 | 68792 |
| Sep. 28, 2010 | NOTICE OF DESIGN SEARCH CODE MAILED                  |       |
| Sep. 25, 2010 | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM |       |
| Sep. 25, 2010 | NEW APPLICATION ENTERED IN TRAM                      |       |

## TM Staff and Location Information

**TM Staff Information - None**

**File Location**

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Nov. 29, 2013

## Assignment Abstract Of Title Information

### Summary

**Total Assignments:** 1

**Registrant:** Donald J. Trump

### Assignment 1 of 1

**Conveyance:** ASSIGNS THE ENTIRE INTEREST

**Reel/Frame:** [5718/0583](#)

**Pages:** 5

Date Recorded: Jan. 28, 2016

Supporting Documents: [assignment-tm-5718-0583.pdf](#)

#### Assignor

Name: [TRUMP, DONALD J.](#)

Execution Date: Jan. 25, 2016

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

#### Assignee

Name: [DTTM OPERATIONS LLC](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: DELAWARE

Address: 725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022

#### Correspondent

Correspondent Name: PATRICE P. JEAN

Correspondent Address: ONE BATTERY PARK PLAZA  
NEW YORK, NY 10004

#### Domestic Representative - Not Found

## Proceedings

#### Summary

Number of Proceedings: 1

#### Type of Proceeding: Cancellation

Proceeding Number: [92063494](#)

Filing Date: Apr 11, 2016

Status: Pending

Status Date: Apr 11, 2016

Interlocutory Attorney: GEORGE POLOGEORGIS

#### Defendant

Name: DTTM Operations LLC

Correspondent Address: DTTM OPERATIONS LLC  
725 FIFTH AVENUE  
NEW YORK NY , 10022  
UNITED STATES

#### Associated marks

| Mark  | Application Status   | Serial Number            | Registration Number     |
|-------|----------------------|--------------------------|-------------------------|
| TRUMP | Cancellation Pending | <a href="#">86625613</a> | <a href="#">4859780</a> |
| TRUMP | Cancellation Pending | <a href="#">86644455</a> | <a href="#">4874427</a> |
| TRUMP | Cancellation Pending | <a href="#">86143441</a> | <a href="#">4813593</a> |
| TRUMP | Cancellation Pending | <a href="#">85348418</a> | <a href="#">4087954</a> |
| TRUMP | Cancellation Pending | <a href="#">85135258</a> | <a href="#">4462986</a> |
| TRUMP | Cancellation Pending | <a href="#">78884538</a> | <a href="#">3360783</a> |
| TRUMP | Cancellation Pending | <a href="#">77475927</a> | <a href="#">3687022</a> |

#### Plaintiff(s)

Name: Prospector Capital Partners, Inc.

Correspondent Address: ROD UNDERHILL  
PROSPECTOR CAPITAL PARTNERS INC  
PO BOX 1238  
JULIAN CA , 92036  
UNITED STATES

Correspondent e-mail: [MP3Rod@aol.com](mailto:MP3Rod@aol.com)

#### Associated marks

| Mark | Application Status | Serial Number | Registration Number |
|------|--------------------|---------------|---------------------|
|------|--------------------|---------------|---------------------|

TRUMP YOUR COMPETITION

Registered

[86116800](#)

[4948838](#)

Prosecution History

| Entry Number | History Text                             | Date         | Due Date     |
|--------------|--|--------------|--------------|
| 1            | FILED AND FEE                            | Apr 11, 2016 |              |
| 2            | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Apr 12, 2016 | May 22, 2016 |
| 3            | PENDING, INSTITUTED                      | Apr 12, 2016 |              |

**Generated on:** This page was generated by TSDR on 2016-05-23 08:55:22 EDT

**Mark:** TRUMP



**US Serial Number:** 78884538

**Application Filing Date:** May 16, 2006

**US Registration Number:** 3360783

**Registration Date:** Dec. 25, 2007

**Register:** Principal

**Mark Type:** Trademark

**TM5 Common Status Descriptor:**



LIVE/REGISTRATION/Cancellation/Invalidation Pending

This trademark application has been registered with the Office, but it is currently undergoing a challenge which may result in its removal from the registry.

**Status:** A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

**Status Date:** Apr. 12, 2016

**Publication Date:** Dec. 05, 2006

**Notice of Allowance Date:** Feb. 27, 2007

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## Mark Information

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**Mark Literal Elements:** TRUMP

**Standard Character Claim:** No

**Mark Drawing Type:** 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

**Description of Mark:** The mark is a heraldic coat of arms consisting of a shield and crest design, all in gold. A shield appears in the center of the design. The shield contains three lions, two chevrons made of repeating rectangles, and many small orbs with crosses. The shield is topped by a knight's helmet. Above the helmet, an extended arm raises a spear. An organic gold leaf or mantling design starts from the helmet and falls to frame the shield. Below the shield, there is a banner carrying the name TRUMP.

**Color Drawing:** Yes

**Color(s) Claimed:** The color(s) gold is/are claimed as a feature of the mark.

**Design Search Code(s):** 02.11.07 - Arms; Fingers; Hands; Human hands, fingers, arms  
03.01.02 - Lion insignia (heraldic lion)  
05.15.02 - Wreaths; Laurel leaves or branches (borders or frames)  
23.01.02 - Spears; Harpoons; Bayonets; Knives, daggers; Hunting knives  
23.05.01 - Helmets, armor  
23.05.02 - Suits of armor  
23.05.25 - Other parts of armor; Gloves (armored)  
24.01.02 - Shields or crests with figurative elements contained therein or superimposed thereon  
24.03.01 - Scepters; Orbs  
24.09.07 - Advertising, banners; Banners  
24.13.01 - Cross, Latin (shorter horizontal lines); Latin cross (shorter horizontal lines)  
24.13.25 - Cross, ankh; Other crosses, including ankh, Maltese; Cross, Maltese  
25.01.25 - Other framework and ornamental borders; Borders, ornamental  
25.03.25 - Repetitive designs, words, or letters as a background; Backgrounds covered with other figurative elements or repetitive designs, words or letters  
26.17.12 - Chevrons; Angles (geometric)

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## Related Properties Information

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**Claimed Ownership** 0235312, 2240310, 2413984, 2431539 and others  
**of US**  
**Registrations:**

## Goods and Services

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Jewelry

**International Class(es):** 014 - Primary Class

**U.S Class(es):** 002, 027, 028, 050

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Apr. 25, 2005

**Use in Commerce:** Apr. 25, 2005

## Basis Information (Case Level)

**Filed Use:** No

**Currently Use:** Yes

**Amended Use:** No

**Filed ITU:** Yes

**Currently ITU:** No

**Amended ITU:** No

**Filed 44D:** No

**Currently 44D:** No

**Amended 44D:** No

**Filed 44E:** No

**Currently 44E:** No

**Amended 44E:** No

**Filed 66A:** No

**Currently 66A:** No

**Filed No Basis:** No

**Currently No Basis:** No

## Current Owner(s) Information

**Owner Name:** DTTM OPERATIONS LLC

**Owner Address:** 725 FIFTH AVENUE  
NEW YORK, NEW YORK UNITED STATES 10022

**Legal Entity Type:** LIMITED LIABILITY COMPANY

**State or Country Where Organized:** DELAWARE

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Patrice P. Jean

**Docket Number:** 31842-01000

**Attorney Primary Email Address:** [trademarks@hugheshubbard.com](mailto:trademarks@hugheshubbard.com)

**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** DTTM OPERATIONS LLC  
725 FIFTH AVENUE  
NEW YORK, NEW YORK UNITED STATES 10022

**Phone:** (212) 837-6847

**Fax:** (212) 299-6051

**Correspondent e-mail:** [trademarks@hugheshubbard.com](mailto:trademarks@hugheshubbard.com)

**Correspondent e-mail Authorized:** Yes

### Domestic Representative - Not Found

## Prosecution History

| Date          | Description  | Proceeding Number |
|---------------|--|-------------------|
| Apr. 12, 2016 | CANCELLATION INSTITUTED NO. 999999                             | 63494             |
| Mar. 30, 2016 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP                    |                   |
| Feb. 03, 2016 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP                    |                   |
| Jan. 27, 2016 | REVIEW OF CORRESPONDENCE COMPLETE - INFORMATION MADE OF RECORD | 89122             |
| Jan. 22, 2016 | TEAS WITHDRAWAL OF ATTORNEY RECEIVED-FIRM RETAINS              |                   |

|               |  |       |
|---------------|--|-------|
| Jun. 17, 2015 | ATTORNEY REVOKED AND/OR APPOINTED                  |       |
| Jun. 17, 2015 | TEAS REVOKE/APPOINT ATTORNEY RECEIVED              |       |
| Oct. 16, 2013 | NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED     |       |
| Oct. 16, 2013 | REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. | 69471 |
| Oct. 08, 2013 | REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED         | 69471 |
| Oct. 16, 2013 | CASE ASSIGNED TO POST REGISTRATION PARALEGAL       | 69471 |
| Oct. 08, 2013 | TEAS SECTION 8 & 15 RECEIVED                       |       |
| Jul. 18, 2008 | ATTORNEY REVOKED AND/OR APPOINTED                  |       |
| Jul. 18, 2008 | TEAS REVOKE/APPOINT ATTORNEY RECEIVED              |       |
| Dec. 25, 2007 | REGISTERED-PRINCIPAL REGISTER                      |       |
| Nov. 21, 2007 | LAW OFFICE REGISTRATION REVIEW COMPLETED           | 69350 |
| Nov. 21, 2007 | ASSIGNED TO LIE                                    | 69350 |
| Oct. 18, 2007 | ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED          |       |
| Oct. 16, 2007 | STATEMENT OF USE PROCESSING COMPLETE               | 76873 |
| Sep. 25, 2007 | USE AMENDMENT FILED                                | 76873 |
| Sep. 25, 2007 | TEAS STATEMENT OF USE RECEIVED                     |       |
| Sep. 20, 2007 | EXTENSION 1 GRANTED                                | 66230 |
| Aug. 27, 2007 | EXTENSION 1 FILED                                  | 66230 |
| Aug. 27, 2007 | TEAS EXTENSION RECEIVED                            |       |
| Feb. 27, 2007 | NOA MAILED - SOU REQUIRED FROM APPLICANT           |       |
| Dec. 05, 2006 | PUBLISHED FOR OPPOSITION                           |       |
| Nov. 15, 2006 | NOTICE OF PUBLICATION                              |       |
| Oct. 17, 2006 | LAW OFFICE PUBLICATION REVIEW COMPLETED            | 78413 |
| Oct. 13, 2006 | ASSIGNED TO LIE                                    | 78413 |
| Oct. 10, 2006 | APPROVED FOR PUB - PRINCIPAL REGISTER              |       |
| Oct. 10, 2006 | EXAMINER'S AMENDMENT ENTERED                       | 88888 |
| Oct. 10, 2006 | EXAMINERS AMENDMENT E-MAILED                       | 6328  |
| Oct. 10, 2006 | EXAMINERS AMENDMENT -WRITTEN                       | 82435 |
| Oct. 02, 2006 | ASSIGNED TO EXAMINER                               | 82435 |
| May 23, 2006  | NOTICE OF DESIGN SEARCH CODE MAILED                |       |
| May 22, 2006  | NEW APPLICATION ENTERED IN TRAM                    |       |

## Maintenance Filings or Post Registration Information

**Affidavit of Continued Use:** Section 8 - Accepted

**Affidavit of Incontestability:** Section 15 - Accepted

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

**Current Location:** TMEG LAW OFFICE 104

**Date in Location:** Oct. 16, 2013

## Assignment Abstract Of Title Information

### Summary

**Total Assignments:** 1

**Registrant:** Trump, Donald J.

### Assignment 1 of 1

**Conveyance:** ASSIGNS THE ENTIRE INTEREST

**Reel/Frame:** [5718/0583](#)

**Pages:** 5

**Date Recorded:** Jan. 28, 2016

**Supporting Documents:** [assignment-tm-5718-0583.pdf](#)

### Assignor

**Name:** [TRUMP, DONALD J.](#)

**Execution Date:** Jan. 25, 2016

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

#### Assignee

Name: [DTTM OPERATIONS LLC](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: DELAWARE

Address: 725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022

#### Correspondent

Correspondent Name: PATRICE P. JEAN

Correspondent Address: ONE BATTERY PARK PLAZA  
NEW YORK, NY 10004

#### Domestic Representative - Not Found

## Proceedings

#### Summary

Number of Proceedings: 1

#### Type of Proceeding: Cancellation

Proceeding Number: [92063494](#)

Filing Date: Apr 11, 2016

Status: Pending

Status Date: Apr 11, 2016

Interlocutory Attorney: GEORGE POLOGEORGIS

#### Defendant

Name: DTTM Operations LLC

Correspondent Address: DTTM OPERATIONS LLC  
725 FIFTH AVENUE  
NEW YORK NY UNITED STATES , 10022

#### Associated marks

| Mark  | Application Status   | Serial Number            | Registration Number     |
|-------|----------------------|--------------------------|-------------------------|
| TRUMP | Cancellation Pending | <a href="#">86625613</a> | <a href="#">4859780</a> |
| TRUMP | Cancellation Pending | <a href="#">86644455</a> | <a href="#">4874427</a> |
| TRUMP | Cancellation Pending | <a href="#">86143441</a> | <a href="#">4813593</a> |
| TRUMP | Cancellation Pending | <a href="#">85348418</a> | <a href="#">4087954</a> |
| TRUMP | Cancellation Pending | <a href="#">85135258</a> | <a href="#">4462986</a> |
| TRUMP | Cancellation Pending | <a href="#">78884538</a> | <a href="#">3360783</a> |
| TRUMP | Cancellation Pending | <a href="#">77475927</a> | <a href="#">3687022</a> |

#### Plaintiff(s)

Name: Prospector Capital Partners, Inc.

Correspondent Address: ROD UNDERHILL  
PROSPECTOR CAPITAL PARTNERS INC  
PO BOX 1238  
JULIAN CA UNITED STATES , 92036

Correspondent e-mail: [MP3Rod@aol.com](mailto:MP3Rod@aol.com)

#### Associated marks

| Mark                   | Application Status | Serial Number            | Registration Number     |
|------------------------|--------------------|--------------------------|-------------------------|
| TRUMP YOUR COMPETITION | Registered         | <a href="#">86116800</a> | <a href="#">4948838</a> |

#### Prosecution History

| Entry Number | History Text                             | Date         | Due Date     |
|--------------|--|--------------|--------------|
| 1            | FILED AND FEE                            | Apr 11, 2016 |              |
| 2            | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Apr 12, 2016 | May 22, 2016 |
| 3            | PENDING, INSTITUTED                      | Apr 12, 2016 |              |



**Generated on:** This page was generated by TSDR on 2016-05-23 08:55:57 EDT

**Mark:** TRUMP

TRUMP

**US Serial Number:** 77475927

**Application Filing Date:** May 15, 2008

**US Registration Number:** 3687022

**Registration Date:** Sep. 22, 2009

**Register:** Principal

**Mark Type:** Trademark

**Status:** A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

**Status Date:** Apr. 12, 2016

**Publication Date:** Oct. 14, 2008

**Notice of Allowance Date:** Jan. 06, 2009

## Mark Information

**Mark Literal Elements:** TRUMP

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

## Related Properties Information

**Claimed Ownership of US Registrations:** 2383885, 2383893, 3340910 and others

## Goods and Services

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Dress shirts

**International Class(es):** 025 - Primary Class

**U.S Class(es):** 022, 039

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Mar. 03, 2005

**Use in Commerce:** Mar. 03, 2005

## Basis Information (Case Level)

**Filed Use:** No

**Currently Use:** Yes

**Amended Use:** No

**Filed ITU:** Yes

**Currently ITU:** No

**Amended ITU:** No

**Filed 44D:** No

**Currently 44D:** No

**Amended 44D:** No

**Filed 44E:** No

**Currently 44E:** No

**Amended 44E:** No

**Filed 66A:** No

**Currently 66A:** No

**Filed No Basis:** No

**Currently No Basis:** No

## Current Owner(s) Information

**Owner Name:** DTTM OPERATIONS LLC

**Owner Address:** 725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022  
UNITED STATES

**Legal Entity Type:** LIMITED LIABILITY COMPANY

**State or Country** DELAWARE  
**Where Organized:**

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Patrice P. Jean

**Docket Number:** 31842-01000

**Attorney Primary** [trademarks@hugheshubbard.com](mailto:trademarks@hugheshubbard.com)  
**Email Address:**

**Attorney Email** Yes  
**Authorized:**

### Correspondent

**Correspondent** DTTM OPERATIONS LLC  
**Name/Address:** 725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022  
UNITED STATES

**Phone:** (212) 837-6847

**Fax:** (212) 299-6051

**Correspondent e-** [trademarks@hugheshubbard.com](mailto:trademarks@hugheshubbard.com)  
**mail:**

**Correspondent e-** Yes  
**mail Authorized:**

### Domestic Representative - Not Found

## Prosecution History

| Date          | Description  | Proceeding Number |
|---------------|--|-------------------|
| Apr. 12, 2016 | CANCELLATION INSTITUTED NO. 999999                             | 63494             |
| Mar. 30, 2016 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP                    |                   |
| Feb. 03, 2016 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP                    |                   |
| Jan. 20, 2016 | REVIEW OF CORRESPONDENCE COMPLETE - INFORMATION MADE OF RECORD | 89122             |
| Jan. 20, 2016 | TEAS WITHDRAWAL OF ATTORNEY RECEIVED-FIRM RETAINS              |                   |
| Nov. 07, 2015 | NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED                 |                   |
| Nov. 07, 2015 | REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.             | 76533             |
| Nov. 07, 2015 | CASE ASSIGNED TO POST REGISTRATION PARALEGAL                   | 76533             |
| Sep. 18, 2015 | TEAS SECTION 8 & 15 RECEIVED                                   |                   |
| Jun. 17, 2015 | ATTORNEY REVOKED AND/OR APPOINTED                              |                   |
| Jun. 17, 2015 | TEAS REVOKE/APPOINT ATTORNEY RECEIVED                          |                   |
| Sep. 22, 2009 | REGISTERED-PRINCIPAL REGISTER                                  |                   |
| Aug. 17, 2009 | LAW OFFICE REGISTRATION REVIEW COMPLETED                       | 74215             |
| Aug. 13, 2009 | ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED                      |                   |
| Jul. 24, 2009 | STATEMENT OF USE PROCESSING COMPLETE                           | 76873             |
| Jun. 30, 2009 | USE AMENDMENT FILED  | 76873             |
| Jul. 24, 2009 | CASE ASSIGNED TO INTENT TO USE PARALEGAL                       | 76873             |
| Jun. 30, 2009 | TEAS STATEMENT OF USE RECEIVED                                 |                   |
| Jan. 06, 2009 | NOA MAILED - SOU REQUIRED FROM APPLICANT                       |                   |
| Oct. 14, 2008 | PUBLISHED FOR OPPOSITION                                       |                   |
| Sep. 24, 2008 | NOTICE OF PUBLICATION  |                   |
| Sep. 10, 2008 | LAW OFFICE PUBLICATION REVIEW COMPLETED                        | 74215             |
| Sep. 10, 2008 | ASSIGNED TO LIE  | 74215             |
| Aug. 30, 2008 | APPROVED FOR PUB - PRINCIPAL REGISTER                          |                   |
| Aug. 29, 2008 | ASSIGNED TO EXAMINER   | 76583             |
| May 20, 2008  | TEAS AMENDMENT ENTERED BEFORE ATTORNEY ASSIGNED                | 88889             |
| May 20, 2008  | TEAS VOLUNTARY AMENDMENT RECEIVED                              |                   |
| May 20, 2008  | TEAS VOLUNTARY AMENDMENT RECEIVED                              |                   |
| May 19, 2008  | NEW APPLICATION ENTERED IN TRAM                                |                   |

## Maintenance Filings or Post Registration Information

**Affidavit of Continued Use:** Section 8 - Accepted

**Affidavit of Incontestability:** Section 15 - Accepted

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

**Current Location:** TMO LAW OFFICE 116

**Date in Location:** Nov. 07, 2015

## Assignment Abstract Of Title Information

### Summary

**Total Assignments:** 1

**Registrant:** Trump, Donald J.

### Assignment 1 of 1

**Conveyance:** ASSIGNS THE ENTIRE INTEREST

**Reel/Frame:** [5718/0583](#)

**Pages:** 5

**Date Recorded:** Jan. 28, 2016

**Supporting Documents:** [assignment-tm-5718-0583.pdf](#)

### Assignor

**Name:** [TRUMP, DONALD J.](#)

**Execution Date:** Jan. 25, 2016

**Legal Entity Type:** INDIVIDUAL

**Citizenship:** UNITED STATES

### Assignee

**Name:** [DTTM OPERATIONS LLC](#)

**Legal Entity Type:** LIMITED LIABILITY COMPANY

**State or Country Where Organized:** DELAWARE

**Address:** 725 FIFTH AVENUE  
NEW YORK, NEW YORK 10022

### Correspondent

**Correspondent Name:** PATRICE P. JEAN

**Correspondent Address:** ONE BATTERY PARK PLAZA  
NEW YORK, NY 10004

### Domestic Representative - Not Found

## Proceedings

### Summary

**Number of Proceedings:** 3

### Type of Proceeding: Cancellation

**Proceeding Number:** [92063494](#)

**Filing Date:** Apr 11, 2016

**Status:** Pending

**Status Date:** Apr 11, 2016

**Interlocutory Attorney:** GEORGE POLOGEORGIS

### Defendant

**Name:** DTTM Operations LLC

**Correspondent Address:** DTTM OPERATIONS LLC  
725 FIFTH AVENUE  
NEW YORK NY , 10022  
UNITED STATES

### Associated marks

| Mark  | Application Status   | Serial Number            | Registration Number     |
|-------|----------------------|--------------------------|-------------------------|
| TRUMP | Cancellation Pending | <a href="#">86625613</a> | <a href="#">4859780</a> |

|       |                      |                          |                         |
|-------|----------------------|--------------------------|-------------------------|
| TRUMP | Cancellation Pending | <a href="#">86644455</a> | <a href="#">4874427</a> |
| TRUMP | Cancellation Pending | <a href="#">86143441</a> | <a href="#">4813593</a> |
| TRUMP | Cancellation Pending | <a href="#">85348418</a> | <a href="#">4087954</a> |
| TRUMP | Cancellation Pending | <a href="#">85135258</a> | <a href="#">4462986</a> |
| TRUMP | Cancellation Pending | <a href="#">78884538</a> | <a href="#">3360783</a> |
| TRUMP | Cancellation Pending | <a href="#">77475927</a> | <a href="#">3687022</a> |

#### Plaintiff(s)

**Name:** Prospector Capital Partners, Inc.

**Correspondent Address:** ROD UNDERHILL  
PROSPECTOR CAPITAL PARTNERS INC  
PO BOX 1238  
JULIAN CA , 92036  
UNITED STATES

**Correspondent e-mail:** [MP3Rod@aol.com](mailto:MP3Rod@aol.com)

#### Associated marks

| Mark                   | Application Status | Serial Number            | Registration Number     |
|------------------------|--------------------|--------------------------|-------------------------|
| TRUMP YOUR COMPETITION | Registered         | <a href="#">86116800</a> | <a href="#">4948838</a> |

#### Prosecution History

| Entry Number | History Text                             | Date         | Due Date     |
|--------------|--|--------------|--------------|
| 1            | FILED AND FEE                            | Apr 11, 2016 |              |
| 2            | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Apr 12, 2016 | May 22, 2016 |
| 3            | PENDING, INSTITUTED                      | Apr 12, 2016 |              |

#### Type of Proceeding: Opposition

**Proceeding Number:** [91206126](#)

**Filing Date:** Jul 18, 2012

**Status:** Terminated

**Status Date:** Jun 07, 2013

**Interlocutory Attorney:** CHRISTEN M ENGLISH

#### Defendant

**Name:** Daniel Muñoz dba Trumpit and Richard Muñoz dba Trumpit

**Correspondent Address:** DANIEL MUÑOZ  
602 DRAKE STREET  
SAN JOSE CA , 95125-2220  
UNITED STATES

**Correspondent e-mail:** [dim82@mailovo.com](mailto:dim82@mailovo.com)

#### Associated marks

| Mark    | Application Status                      | Serial Number            | Registration Number |
|---------|---|--------------------------|---------------------|
| TRUMPIT | Abandoned - After Inter-Partes Decision | <a href="#">85442174</a> |                     |

#### Plaintiff(s)

**Name:** Donald J. Trump

**Correspondent Address:** JAMES D WEINBERGER  
FROSS ZELNICK LEHRMAN & ZISSU PC  
866 UNITED NATIONS PLAZA, 6TH FLOOR  
NEW YORK NY , 10017  
UNITED STATES

**Correspondent e-mail:** [jweinberger@fzlz.com](mailto:jweinberger@fzlz.com) , [aleipsic@fzlz.com](mailto:aleipsic@fzlz.com)

#### Associated marks

| Mark                                     | Application Status                           | Serial Number            | Registration Number     |
|--|--|--------------------------|-------------------------|
| TRUMP                                    | Cancellation Pending                         | <a href="#">77475927</a> | <a href="#">3687022</a> |
| TRUMP                                    | Section 8 - Accepted                         | <a href="#">77029020</a> | <a href="#">3728787</a> |
| THE DONALD J. TRUMP SIGNATURE COLLECTION | Section 8 and 15 - Accepted and Acknowledged | <a href="#">78469433</a> | <a href="#">3340910</a> |
| THE TRUMP SPA                            | Renewed                                      | <a href="#">75509028</a> | <a href="#">2383885</a> |

|                                   |                      |                          |                         |
|-----------------------------------|----------------------|--------------------------|-------------------------|
| THE TRUMP SPA AT MAR A LAGO       | Renewed              | <a href="#">75511985</a> | <a href="#">2383893</a> |
| TRUMP INTERNATIONAL HOTEL & TOWER | Renewed              | <a href="#">75450936</a> | <a href="#">2226174</a> |
| TRUMP NATIONAL GOLF CLUB          | Renewed              | <a href="#">75306506</a> | <a href="#">2269568</a> |
| TRUMP                             | Cancellation Pending | <a href="#">77157334</a> | <a href="#">3391095</a> |
| TRUMP                             | Cancellation Pending | <a href="#">85348418</a> | <a href="#">4087954</a> |

| Prosecution History |  |              |              |
|---------------------|--|--------------|--------------|
| Entry Number        | History Text                             | Date         | Due Date     |
| 1                   | FILED AND FEE                            | Jul 18, 2012 |              |
| 2                   | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Jul 18, 2012 | Aug 27, 2012 |
| 3                   | PENDING, INSTITUTED                      | Jul 18, 2012 |              |
| 4                   | NOTICE OF DEFAULT                        | Sep 11, 2012 |              |
| 5                   | D'S OPPOSITION/RESPONSE TO MOTION        | Oct 09, 2012 |              |
| 6                   | P'S OPPOSITION/RESPONSE TO MOTION        | Oct 12, 2012 |              |
| 7                   | BOARD'S ORDER TRIAL DATES RESET          | Nov 14, 2012 |              |
| 8                   | W/DRAW OF APPLICATION                    | May 22, 2013 |              |
| 9                   | BD DECISION: SUSTAINED                   | Jun 07, 2013 |              |
| 10                  | TERMINATED                               | Jun 07, 2013 |              |

#### Type of Proceeding: Opposition

**Proceeding Number:** [91202558](#)

**Filing Date:** Nov 16, 2011

**Status:** Terminated

**Status Date:** Mar 12, 2012

**Interlocutory Attorney:** CHERYL S GOODMAN

#### Defendant

**Name:** Angels New York US, Inc

**Correspondent Address:** K CLYDE VANEL  
234 FIFTH AVENUE 4TH FL  
NEW YORK NY , 10001-7607  
UNITED STATES

**Correspondent e-mail:** [clydevanel@vanellaw.com](mailto:clydevanel@vanellaw.com)

#### Associated marks

| Mark     | Application Status                      | Serial Number            | Registration Number |
|----------|---|--------------------------|---------------------|
| TRUMPFIT | Abandoned - After Inter-Partes Decision | <a href="#">85163718</a> |                     |

#### Plaintiff(s)

**Name:** Donald J. Trump

**Correspondent Address:** JAMES D WEINBERGER  
FROSS ZELNICK LEHRMAN & ZISSU PC  
866 UNITED NATIONS PLAZA  
NEW YORK NY , 10017  
UNITED STATES

**Correspondent e-mail:** [jweinberger@frosszelnick.com](mailto:jweinberger@frosszelnick.com) , [aleipsic@frosszelnick.com](mailto:aleipsic@frosszelnick.com)

#### Associated marks

| Mark                                     | Application Status                           | Serial Number            | Registration Number     |
|--|--|--------------------------|-------------------------|
| TRUMP                                    | Cancellation Pending                         | <a href="#">77475927</a> | <a href="#">3687022</a> |
| TRUMP                                    | Section 8 - Accepted                         | <a href="#">77029020</a> | <a href="#">3728787</a> |
| THE DONALD J. TRUMP SIGNATURE COLLECTION | Section 8 and 15 - Accepted and Acknowledged | <a href="#">78469433</a> | <a href="#">3340910</a> |
| THE TRUMP SPA                            | Renewed                                      | <a href="#">75509028</a> | <a href="#">2383885</a> |
| TRUMP                                    | Renewed                                      | <a href="#">75338006</a> | <a href="#">2240310</a> |
| TRUMP                                    | Cancellation Pending                         | <a href="#">77157334</a> | <a href="#">3391095</a> |

| Prosecution History |  |              |              |
|---------------------|--|--------------|--------------|
| Entry Number        | History Text                             | Date         | Due Date     |
| 1                   | FILED AND FEE                            | Nov 16, 2011 |              |
| 2                   | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Nov 16, 2011 | Dec 26, 2011 |

|   |                             |              |
|---|-----------------------------|--------------|
| 3 | PENDING, INSTITUTED         | Nov 16, 2011 |
| 4 | NOTICE OF DEFAULT           | Jan 14, 2012 |
| 5 | BOARD'S DECISION: SUSTAINED | Mar 12, 2012 |
| 6 | TERMINATED                  | Mar 12, 2012 |

## **Exhibit E**

Transcript of the deposition testimony of Alan Garten in the TRUMP YOUR COMPETITION opposition proceeding (the “TYC Opposition Proceeding”)

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ALAN GARTEN, ESQ.  
  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD  
  
\_\_\_\_\_  
DONALD J. TRUMP )  
Opposer, )  
v. ) Opposition No.  
TRUMP YOUR COMPETITION, INC. ) 91217618  
Applicant. )  
\_\_\_\_\_)

TRANSCRIPT OF ALAN GARTEN, ESQ.

November 12, 2015

10:08 a.m.

Deposition of ALAN GARTEN, ESQ., taken  
by Opposer, at the offices of Hughes Hubbard &  
Reed LLP, One Battery Park Plaza, New York, New  
York, before Brandon Rainoff, a Federal  
Certified Realtime Reporter and Notary Public of  
the State of New York.



1 ALAN GARTEN, ESQ.

2 A P P E A R A N C E S

3

4 HUGHES HUBBARD & REED LLP

5 Attorneys for Opposer

6 One Battery Park Plaza

7 New York, New York 10004-1482

8 212. 837. 6000

9 BY: NATASHA N. REED, ESQ.

10 212. 837. 6847

11 reed@hugheshubbard.com

12 LENA C. SALTOS, ESQ.

13 212. 837. 6494

14 saltos@hugheshubbard.com

15

16 ROD UNDERHILL, ATTORNEY AT LAW

17 Attorneys for Applicant

18 P. O. Box 1238

19 Julian, California 92036-1238

20 619. 540. 0631

21 BY: ROD UNDERHILL, ESQ.

22 mp3rod@aol.com

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ALAN GARTEN, ESQ.

I N D E X O F E X A M I N A T I O N

Witness:

Alan Garten, Esq.

Examination:

Direct by Ms. Reed.....Page 6

Cross by Mr. Underhill.....Page 70

Index of Exhibits.....Page 4

|    |  |   |
|----|--|---|
| 1  | ALAN GARTEN, ESQ.                                |   |
| 2  | I N D E X   O F   E X H I B I T S                |   |
| 3  | (Stipulated by counsel as offered into evidence) |   |
| 4  |  |   |
| 5  | Exhibit 1  | Single-page document entitled: US PT0 .....13   |
| 6  |  | Service Mark Principal Register, dated  |
| 7  |  | March 16, 1999 (no Bates Nos.)  |
| 8  |  |   |
| 9  | Exhibit 2  | Multipage document bearing images .....38   |
| 10 |  | (no Bates Nos.)   |
| 11 |  |   |
| 12 | Exhibit 3  | Multipage document bearing images .....56   |
| 13 |  | (no Bates Nos.)   |
| 14 |  |   |
| 15 | Exhibit 4  | Single-page document bearing image .....64  |
| 16 |  | (no Bates No.)  |
| 17 |  |   |
| 18 | Exhibit 5  | Three-page document bearing heading on .....67  |
| 19 |  | first page:   |
| 20 |  | <a href="http://www.trumphyourcompetition.com/">http://www.trumphyourcompetition.com/</a> |
| 21 |  | (no Bates No.)  |

1                               ALAN GARTEN, ESQ.

2                               \*       \*       \*

3                               P R O C E E D I N G

4                               Thursday, November 12, 2015

5                               New York, New York

6                               10:08 a.m.

7                               \*       \*       \*

8       ALAN GARTEN, ESQ.,

9                               having been duly sworn, was examined and  
10                              testified as follows:

11                             MS. REED: I just want to make a  
12                             couple of stipulations before we start.

13                             The first one is that the parties  
14                             stipulate that any exhibits that are marked and  
15                             identified today will be deemed as being offered  
16                             into evidence.

17                             MR. UNDERHILL: So stipulated.

18                             MS. REED: And the second is that the  
19                             parties have not actually entered into a formal  
20                             protective order.

21                             But the parties agree that this  
22                             proceeding is governed by the standard  
23                             protective order issued by the Trademark Trial  
24                             and Appeal Board of the U.S. Patent and  
25                             Trademark Office.

1           ALAN GARTEN, ESQ. - DIRECT - BY MS. REED

2           MR. UNDERHILL: So stipulated.

3           MS. REED: I also want to add that  
4 today, Mr. Alan Garten is testifying in the  
5 opposer's testimony period.

6           And Mr. Underhill, who represents the  
7 applicant, is free to cross-examine Mr. Garten.  
8 And he's free to ask him any question he would  
9 like to ask, even beyond the scope of our direct  
10 examination -- provided, obviously, that it  
11 doesn't elicit anything that's attorney-client  
12 privileged; and that privilege is not waived.

13           MR. UNDERHILL: I'm not stipulating to  
14 that as an offer by counsel.

15           Thank you.

16           MS. REED: Okay.

17 DIRECT EXAMINATION

18 BY MS. REED:

19           Q. Mr. Garten, are you currently  
20 employed?

21           A. Yes.

22           Q. Where do you work?

23           A. The Trump Organization.

24           Q. How long have you worked for The Trump  
25 Organization?

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2 A. Since December, 2006.

3 Q. What is your current position at The  
4 Trump Organization?

5 A. Executive vice-president and general  
6 counsel.

7 Q. Have you always had that position at  
8 The Trump Organization?

9 A. No.

10 When I started, I was assistant  
11 general counsel.

12 And around three years ago, I was  
13 promoted to executive vice-president and general  
14 counsel.

15 Q. Can you briefly explain the nature of  
16 your responsibilities at the company?

17 A. Sure.

18 So I am responsible -- I'm the general  
19 counsel and responsible for overseeing virtually  
20 all legal matters -- from transactions, to  
21 litigation, to employment, to intellectual  
22 property.

23 And as it relates to today,  
24 intellectual property would include brand  
25 management of the Trump brand and all of its

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2           marks -- including, you know, the Trump house  
3           mark, and all of its derivative marks, and  
4           everything within the trademark portfolio --  
5           brand management and enforcement of the  
6           trademarks -- everything, sort of, from soup to  
7           nuts associated with intellectual property  
8           matters; along with everything else on the legal  
9           side, you know, which is commercial litigation,  
10          all types of litigation, virtually everything  
11          legal-related.

12           Q.     You mentioned transactional.

13                    So can you describe what that type of  
14          work entails?

15           A.     I'm involved in transactional matters  
16          for the company acquisitions -- you know, lots  
17          of different types of transactional matters.

18           Q.     Do those transactional matters involve  
19          trademarks or licensing at all?

20           A.     Sure.

21                    When I first actually started with the  
22          company, my primary task was transactions and I  
23          worked on a ton of licensing matters.

24                    Today I'm still involved in the  
25          licensing part of the business -- both from a

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2           business perspective, advising my client on  
3           business issues, on how to enter into license  
4           deals and license the brand; and also from a  
5           legal perspective, consulting and overseeing our  
6           legal team and entering into different licensing  
7           deals -- whether they be real estate licensing  
8           deals, product licensing deals -- runs the  
9           gamut.

10           Q.     You said: Advising your client.  
11                   Who is your client?

12           A.     I'm employed by The Trump  
13           Organization.

14                   The Trump Organization is principally  
15           owned by Donald Trump and is run by Mr. Trump,  
16           and his -- members of his family, as well as  
17           other executives at the company.

18           Q.     Can you tell us who the other members  
19           of his family are that run the company?

20           A.     Sure.

21                   So the members of his family who are  
22           involved are his three eldest children, Donald,  
23           Jr., Ivanka and Eric Trump.

24           Q.     What is Ivanka Trump's position at the  
25           company?



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2           A.     All three of them are executive  
3 vice-presidents.

4           Q.     You mentioned your responsibilities at  
5 The Trump Organization including all legal  
6 matters.

7                     Can you tell me just generally how you  
8 perform your responsibilities?

9           A.     Sure.

10                    So it's sort of a twofold approach.

11                    We have our own internal team. And  
12 we've got, you know, members of our team. We've  
13 got other lawyers on our team. And we've got  
14 paralegals, assistants. And we all sort of work  
15 collectively to, you know, oversee legal matters  
16 at the company.

17                    When it comes to intellectual  
18 property, we've got a paralegal who is solely  
19 dedicated to intellectual property matters. We  
20 have a separate paralegal who is just a  
21 trademark paralegal. And then we have other  
22 people involved -- another attorney principally  
23 involved -- who assists me in overseeing -- both  
24 overseeing the portfolio itself and a lot on  
25 brand management and enforcement; which often

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2           includes sending cease-and-desist letters, you  
3           know, commencing actions where we believe we see  
4           infringement, filing oppositions to trademark  
5           applications, policing the registration of  
6           domain names.

7                     Again, it is, sort of, all aspects of  
8           intellectual property.

9                     In addition to our internal team, then  
10          we work with outside counsel -- whether it be  
11          Hughes, Hubbard & Reed and other firms -- within  
12          the U.S. and also around the world.

13          Q.       Are there other senior executives that  
14          are involved in the day-to-day management of  
15          trademark licensing or trademark portfolio  
16          management?

17          A.       So I would say that, when it comes to  
18          trademark portfolio management, Eric Trump, Mr.  
19          Trump's son, is sort of the one executive who is  
20          principally involved in overseeing the trademark  
21          portfolio and taking steps to protect it and  
22          enforce our intellectual property rights.

23                     Other members of the family -- Donald,  
24          Jr. and Ivanka -- are involved sort of in terms  
25          of licensing deals.

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2                   But Eric Trump is really the person  
3 who is principally involved in overseeing what I  
4 do on the intellectual property front.

5           Q.     How is, if at all, Mr. Trump involved  
6 in the day-to-day activities of managing the  
7 portfolio and licensing -- trademark licensing?

8           A.     He's not.

9                   He's -- you know, the company is -- is  
10 sort of a conglomerate of various business  
11 interests. And Mr. Trump does not get involved  
12 in the sort of -- that's my job to oversee the  
13 portfolio and work with Eric Trump when  
14 necessary. But principally that's my job, and  
15 sort of that's delegated to me.

16                   So he's not involved in the  
17 day-to-day.

18           Q.     Generally, can you tell me what, if  
19 anything, that you did to prepare for today's  
20 testimony?

21           A.     Reviewed select documents and briefly  
22 spoke with counsel.

23           Q.     Can you state the address of The Trump  
24 Organization -- your business address -- for the  
25 record?

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2 A. Trump Organization main offices are  
3 725 Fifth Avenue, New York, New York, in Trump  
4 Tower.

5 MS. REED: I'd like to offer Exhibit  
6 1.

7 (Exhibit 1, Single-page document  
8 entitled: US PTO Service Mark Principal  
9 Register, dated March 16, 1999 (no Bates Nos.),  
10 marked for identification)

11 BY MS. REED:

12 Q. Mr. Garten, do you recognize this  
13 document that's marked as Exhibit 1?

14 A. Yes, I do.

15 Q. What is it?

16 A. It is the registration with the United  
17 States Patent and Trademark Office of the mark  
18 Trump -- or The Trump Organization.

19 Q. Do you see on the registration where  
20 it states: First Use?

21 And then it says: In Commerce?

22 A. Yes.

23 Q. Can you tell us what year is listed  
24 there?

25 A. It says: December 31, 1964.

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2 Q. Do you know what that date represents?

3 A. That date corresponds to when The  
4 Trump Organization was first created by Mr.  
5 Trump when -- I believe when his -- I believe it  
6 coincides when he -- I know it does.

7 It's the date when he formed the  
8 company, and registered the mark, and when he,  
9 sort of, went out on his own in the real estate  
10 business.

11 Q. You said: When he also registered the  
12 mark.

13 What do you mean by that?

14 A. Well, I guess that's when he first  
15 started using the mark. That's when he first  
16 started using the name "The Trump Organization"  
17 to refer to his business.

18 I see it was registered later.

19 But the first time he used it was in  
20 1964 when he went on his own; formed the  
21 company.

22 Q. Do you see in the Exhibit 1 where it  
23 says: For -- the word "For:" -- then there is a  
24 description?

25 A. Yes.

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2 Q. Can you read that description for the  
3 record?

4 A. It says: For: Real estate planning,  
5 laying out, development and construction  
6 services of residential, industrial and  
7 commercial properties services in Class 37.

8 Q. Is The Trump Organization currently  
9 involved in offering those services under The  
10 Trump Organization trademark?

11 A. Yes.

12 Q. Are there any other goods and services  
13 that are offered under The Trump Organization  
14 trademark?

15 A. Yes.

16 The company now, you know, today is --  
17 The Trump Organization essentially refers to the  
18 larger enterprise which started out in, you  
19 know, 1964 as predominantly a real estate  
20 development construction and planning company;  
21 and has now expanded into a multitude of other  
22 areas on the real estate side.

23 Just on the real estate side, that  
24 would be real estate development, real estate  
25 construction, real estate brokerage, real estate

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2           management, real estate licensing, hotel  
3           development, condominium development, golf  
4           course development.

5                     Then you've got casinos -- a casino  
6           business -- businesses. You've got product  
7           licensing.

8                     So there is a whole host of products  
9           which have the Trump house mark, I guess you  
10          could call it.

11                    You've got other sub-businesses.  
12          There is Trump University. There is  
13          entertainment services. So you've got Trump  
14          Productions, which produces television shows;  
15          was and is a producer of the television show The  
16          Apprentice, which ran for, you know, 14 seasons.

17                    Trump Organization was involved, and  
18          was -- up until about two or three months ago --  
19          50% owner of the Miss Universe organization.  
20          And The Trump Organization and Trump brand was  
21          used in connection with that organization.

22                    You've got books. Mr. Trump has  
23          written, you know, 15, 20 -- more than 20 books,  
24          which prominently use the Trump name and  
25          associated logos and derivative marks.

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2           Trying to think what else I'm  
3           missing -- product licensing, hotel -- yeah,  
4           that's sort of it.

5           Q.     In --

6           A.     Oh, wine -- I'm sorry -- winery -- you  
7           have the winery -- yeah.

8           Q.     On the product licensing front, can  
9           you give examples of products that bear the  
10          Trump house mark, as you called it?

11          A.     Sure.

12          So over the years, Mr. Trump has  
13          licensed the mark for a wide variety of  
14          products -- from shirts and ties and suits, to  
15          fragrances, to vodka, to steaks, to water,  
16          golf-related apparel.

17          Talking just products?

18          There is Trump home furnishings.

19          There is Trump tea.

20          I'm sure there is others that are  
21          missing.

22          Q.     Okay.

23          Are all of these -- excuse me.

24          Strike that and rephrase.

25          What trademark is used to, I guess, to



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2           sell these products?

3                   Or promote these services?

4           A.     All of these products use the Trump --  
5           what we call the Trump house mark, the basic  
6           Trump mark.

7                   Then often there will be sort of  
8           derivations of the Trump mark.

9                   So, for example, you know, all of his  
10          books -- almost all of his books have  
11          prominently the Trump name. And many of the  
12          titles will be "Trump" plus something else:  
13          Trump: The Art of a Deal, Trump, you know --  
14          whatever it is.

15                  And then also on -- we were just  
16          talking about products. You can have Trump tea,  
17          Trump steaks, Trump vodka. Those are sort of  
18          the basic house mark -- use of the house mark.

19                  Then you've got hundreds of  
20          derivations of the Trump house mark. For  
21          example, I could give a multitude of examples --

22          Q.     We'll go through some of the examples.

23                  But so, when you say "the Trump house  
24          mark" -- and you sort of explained it -- what do  
25          you mean "the Trump house mark" then

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2 "derivatives of the mark"?

3 A. By "Trump house mark," I mean the name  
4 "Trump."

5 And by "derivatives of it," I mean  
6 Trump International Hotel & Tower, Trump  
7 national golf course, Trump estates, Trump  
8 International Realty, Trump Mortgage.

9 We are talking about hundreds of marks  
10 that have been registered over the years.

11 Q. Approximately how much money in gross  
12 revenues would you say the organization has  
13 generated in connection with offering goods and  
14 services under the Trump house mark in the  
15 United States?

16 You could talk about, you know,  
17 international, worldwide.

18 Then what portion of that would be  
19 sales in the U.S. ?

20 A. It is difficult to sort of put an  
21 exact number on it.

22 But over the years, you are talking  
23 about in the -- probably in the billions of  
24 dollars.

25 On a year-to-year basis worldwide, it

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2           would be in the hundreds of millions of dollars.

3                     Probably in, you know, you know, I  
4           would say in last year, you are talking about  
5           upwards -- or in excess -- of maybe \$400  
6           million.

7                     In the U.S. it would be about 65 to  
8           70 -- probably 70% of that is generated in the  
9           United States.

10           Q.     And how do you know this?

11           A.     I'm general counsel of the company.  
12           So I'm familiar with the licensing -- I'm  
13           familiar with all aspects of the use of the mark  
14           in every which way.

15                     I am aware of -- I worked on and  
16           continue to work on how the mark is used --  
17           whether it be in a licensing deal to a third  
18           party, whether it be to offer and sell products  
19           that we ourselves develop or create.

20                     Like, if we are going to develop a  
21           condominium building in Chicago -- which we have  
22           done -- or Las Vegas, then sell off units, I'm  
23           involved in both legal aspect and the business  
24           aspect. I work closely with every member of the  
25           company, including our accounting department. I

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2           receive from time to time e-mails which have  
3           breakdowns of how revenues are being generated  
4           and which projects they are coming from and  
5           where sales are coming from.

6                       So I'm pretty familiar with all of the  
7           financial aspects of the company.

8           Q.     Does the company and/or its licensees  
9           do anything to promote the goods and services  
10          under the Trump house mark?

11          A.     Yeah -- a lot of what we do is sales  
12          and marketing efforts.

13                    We are offering generally products of  
14          different kinds -- whether it be, you know, home  
15          products or condominium units, real estate  
16          memberships to clubs -- golf clubs, private  
17          member clubs, social clubs.

18                    So a lot of what goes into that is  
19          sales and marketing efforts.

20                    We oversee sales and marketing of our  
21          own projects.

22                    I gave the example of Chicago and Las  
23          Vegas. So we would oversee the sales and  
24          marketing of that ourselves.

25                    When it comes to deals where we are

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2           licensing the Trump mark -- let's say, for  
3           example, on a real estate deal -- that would be  
4           a deal where a third party is developing a  
5           project, but we -- sort of to police and protect  
6           the mark and use of our brand, our deals all  
7           have pretty rigorous approval requirements where  
8           all sales and marketing is subject to our  
9           approval.

10                   And there are detailed procedures in  
11           all of our documents which has sort of an  
12           approval process. Everything has to be run  
13           through us.

14                   So we are very involved in sales and  
15           marketing -- not just for products that we are  
16           involved in ourselves, but for projects where  
17           other people are developing. We are on top of  
18           it and police it.

19           Q.       So when you say "sales and marketing"  
20           or "marketing" -- what does that entail?

21                   Is that advertising?

22                   What is that, exactly --

23           A.       Yeah -- it can come in sort of a lot  
24           of different forms depending on the product,  
25           depending upon a lot of different factors.

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2                       So there is sort of what I would call  
3       traditional sales and marketing, which is  
4       magazines, or radio, or television,  
5       newspapers -- things of that nature.

6                       And then there is, you know, more I  
7       guess modern technology-based types of  
8       advertising -- social media, Internet, website,  
9       etc. -- e-mail blasts, things like that.

10                      And we are pretty strict and we go to  
11       great efforts -- we have our own internal  
12       marketing team -- to enforce and police the  
13       activities, both by us and by other parties.

14                      Q.     Approximately how much money has your  
15       organization and/or its licensees spent, let's  
16       say, within the last year on marketing -- sales,  
17       marketing and advertising -- goods and services  
18       under the Trump name, both worldwide and in the  
19       U.S., if you can --

20                      A.     Hard to pinpoint because every deal is  
21       sort of a separate entity.

22                      And -- but you are talking about in  
23       the tens of millions of dollars per year --  
24       yeah.

25                      Q.     Is that worldwide advertising?

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2 Or is that just for the U.S.?

3 A. You'd easily be talking about in the  
4 tens of millions of dollars worldwide, of which  
5 in terms of U.S., first, internationally I would  
6 say 65 to 70% -- sort of the same percentage --  
7 it would be a corresponding percentage to the  
8 amount of deals -- the amount of revenue  
9 generated from the use of the brand.

10 It would correspond to -- you know, 65  
11 to 70% of that would probably be in the U.S. and  
12 rest of it outside.

13 Traditionally, the company has been a  
14 U.S.-based company.

15 In recent years, there has been a lot  
16 of efforts to expand internationally. It's been  
17 pretty successful. And that's a growing sort of  
18 element of what we do.

19 But it's traditionally a U.S.-based  
20 project with most of our efforts in the U.S.

21 Q. I'll ask you the same question: How  
22 do you know that you have spent in the tens of  
23 millions of dollars in advertising?

24 A. Because I've worked -- you know, I've  
25 worked for the company for the last almost 10

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2 years. And, you know, I'm involved in all this.

3 In fact, I work extremely closely with  
4 the marketing people, because I do all of the  
5 oversight and review of all the marketing  
6 efforts to make sure that they are legally  
7 compliant and proper from a business standpoint.

8 So whether it be me sort of providing  
9 guidance to our marketing people, or me, myself,  
10 by hand, sort of overseeing and approving --  
11 ultimately approving -- all the marketing and  
12 making sure it has the proper language and  
13 protections, all of it ultimately goes through  
14 me anyway.

15 Q. Does that include the expenses that  
16 are spent for advertising?

17 A. I'm not involved in the approval of  
18 expenses.

19 But I'm aware of sort of the companies  
20 that we have worked with and the marketing  
21 efforts.

22 So -- yeah, so I'm pretty familiar  
23 with that whole process.

24 Q. So you mentioned the company and  
25 Mr. Trump do business under the Trump house mark



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2           for a variety of goods and services.

3                       So let's just go through each of  
4           those.

5           A.     Sure.

6           Q.     You mentioned real estate and  
7           development.

8                       Can you give examples of the use of  
9           either the Trump house mark alone or as a  
10          derivative mark for commercial and residential  
11          real estate properties?

12          A.     Yeah -- I mean, just in New York  
13          alone, you could look at 20 different -- or  
14          more -- properties that use the Trump name --  
15          whether it's The Trump Building at 40 Wall  
16          Street, which is right around the corner from  
17          here. You've got Trump Tower on Fifth Avenue.  
18          You've got Trump World Tower. You've got Trump  
19          Plaza on Third Avenue and 63rd Street. You have  
20          Trump Park. I think there is Trump Park East.

21                       I mean, there are countless Trump, you  
22          know, buildings.

23                       You've got Trump Place on the upper  
24          west side.

25                       I'm sure I'm missing many.

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2           Then you -- those all use the Trump  
3 house mark in conjunction, you know, with some  
4 other term.

5           Then you've got derivative marks,  
6 which around the country, you are talking about  
7 the golf courses are all branded Trump National  
8 Golf Club, and then usually an identifier --  
9 location identifier. So you've got Trump  
10 National Golf Club Palm Beach, Trump National  
11 Golf Club DC, Bedminster, Briarcliff,  
12 Philadelphia.

13           I think there is now 15-16 golf  
14 courses around the world. And they all use the  
15 Trump National Golf Club mark.

16           Internationally, you've got Trump Golf  
17 Links Scotland, clubs in Turnbury, and other  
18 places as well.

19           On the hotel side, you know, going  
20 on --

21           Q.     You --

22           A.     -- you have got Trump International  
23 Hotel & Tower, Chicago, Trump Hotel -- I believe  
24 now it's called Trump Hotel Las Vegas, Trump  
25 Soho Hotel, you know, in lower Manhattan,

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2           Trump -- Trump International Hotel Central Park  
3           West on the upper west side.

4           Q.     What about for casinos?

5           A.     Casino -- there was Trump Plaza.

6           There still is the Trump Taj Mahal in Atlantic  
7           City. There is also a casino in -- Trump  
8           International Hotel & Tower Panama has a casino  
9           as well.

10          Q.     You also mentioned wines and  
11          vineyards.

12                 Can you give an example of a Trump  
13          formative mark for wines or vineyards?

14          A.     Yeah -- so the Trump name is used --  
15          Mr. Trump himself and through various companies  
16          he controls and his family controls own a winery  
17          in Charlottesville, Virginia, known as Trump  
18          Winery. I think it's called Trump Winery  
19          Charlottesville.

20                 And at Trump Winery they have several  
21          different sort of products being offered. One  
22          is there is a huge hotel with the Trump mark.  
23          There is Trump wine, which is manufactured and  
24          distributed along the east coast, with, you  
25          know, on the labels, big, prominent letters

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2           "Trump" across it.

3                     There is a Trump wine tasting room.

4           There is tremendous event business all at the

5           Trump Winery.

6           Q.     What about entertainment-related  
7           services?

8                     You mentioned "Trump" was being used  
9           for that as well.

10                    Can you give examples?

11           A.     So on the entertainment front, you  
12           have got Trump Productions, which was a producer  
13           for The Apprentice and still develops, produces  
14           a series of television shows right now.

15                    You have got Trump pageants, which is  
16           a principal owner of the Miss Universe  
17           organization.

18                    You've got -- the Trump name is also  
19           used in connection with books.

20           Q.     You mentioned previously Trump Models?

21           A.     Trump Model Management -- right.  
22           Trump Model Management is a modeling agency  
23           that's based in New York which -- yes, which  
24           also is -- which obviously uses the Trump mark.

25           Q.     For Trump Productions, you mentioned

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2 that -- that was a company that produced The  
3 Apprentice?

4 A. Yeah -- so Trump Productions still  
5 exists. And although The Apprentice is not  
6 running now, Trump Productions was a producer --  
7 along with Mark Burnett productions, the creator  
8 of The Apprentice -- so actually, if you watch  
9 the end of The Apprentice, it always says Mark  
10 Burnett, it will say Trump Productions -- so it  
11 gets production credit. And it, you know, it  
12 was in the business of co-producing with Mark  
13 Burnett.

14 In addition, Trump Productions has  
15 produced other TV shows as well -- some reality  
16 TV shows. There are some that are in  
17 development.

18 And I believe also Trump  
19 Production was involved in the production of  
20 the Miss Universe -- Miss Universe, Miss USA,  
21 Miss Teen USA pageants.

22 Q. For The Apprentice, can you just tell  
23 us briefly what that show was about?

24 A. Sure.

25 So the Apprentice was -- ran 14

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2           seasons.

3                     It's not currently in production. It  
4           is actually in production with other -- another  
5           host in the United States.

6                     Mr. Trump -- you know, as most people  
7           know -- was the host of the show and co-creator  
8           of the show with Mark Burnett. It ran on NBC  
9           for 14 seasons. It's now running in development  
10          with a new host. It also runs internationally.

11                    And sort of the -- the idea behind the  
12          concept for the show was for contestants to  
13          compete with one another to become Mr. Trump's  
14          apprentice; and to exemplify their business  
15          skills and negotiating skills; and compete  
16          against each other to show who was sort of, you  
17          know, best qualified to be his apprentice.

18                    Q.     You mentioned beverages. I know you  
19          spoke of wine.

20                    Are there any other beverages using  
21          the Trump house mark or a formative derivative?

22                    A.     There is currently a Trump water.

23                    There is currently Trump Tea products.

24                    There is -- there was a Trump Vodka,  
25          which no longer is for sale. It was sold in --

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2           Trump vodka actually was sold in the U.S.

3                   And there was actually -- someone  
4           tried to sell it in Israel. We actually brought  
5           an infringement action against the company in  
6           Israel and litigated it in court in Israel.

7                   Water, wine, tea, vodka -- that's all  
8           I can think of.

9           Q.     You mentioned also apparel.

10                   Can you give examples of the use of  
11           the Trump house mark or a derivative of the  
12           Trump house mark for apparel?

13           A.     In apparel, the Trump mark and house  
14           mark has been successful -- very successful --  
15           and used quite a bit. You have a series of  
16           deals.

17                   You had -- and still have -- a deal  
18           for the manufacturing of shirts -- shirts, ties  
19           and suits. Shirts and ties were manufactured  
20           with the Trump name. I think it's called  
21           actually the Donald Trump Signature -- it is  
22           called the Donald Trump Signature Collection.

23                   And that was manufactured -- suits and  
24           ties were manufactured by -- or are still  
25           manufactured by -- Phillips-Van Huesen, which is

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2           one of the largest sort of suit and tie  
3           manufacturers in the world and distributed in  
4           Macy's and other places.

5                       Suits were manufactured by a company  
6           called Marcraft.

7                       And I'm not sure who manufactures them  
8           now offhand.

9                       There are Trump golf shirts, every --  
10          which are sold not only in Trump Tower. There  
11          are actually Trump golf shirts. There are Trump  
12          sweatshirts. There are Trump hats.

13                      There are a lot of different apparel  
14          products. And they are sold today. You can buy  
15          them online at the Trump golf website. You can  
16          buy them in Trump Tower. You can buy them at  
17          some of the Trump hotels.

18                      And you can buy them in the pro shops  
19          at every golf club where they make up -- you  
20          know, there is a pretty sizable amount of  
21          apparel products. And at those clubs, you've  
22          got everything you could possibly imagine --  
23          from a golf club with the Trump name on it.

24                      Q.     Right.

25                      A.     And a lot of it is -- you got, you



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2           know, equipment, and hats, and golf balls, and  
3           everything can you imagine.

4           Q.     You also mentioned fragrances.

5                     Can you give an example of the use of  
6           the Trump mark -- house mark or a derivative --  
7           for fragrances?

8           A.     Yeah -- so the Trump mark has been  
9           used on a fragrance sold by, you know,  
10          manufactured by a third party fragrancemaker  
11          pursuant to a license deal where Mr. Trump  
12          licensed his name and brand. And I believe it's  
13          called Empire, which is his fragrance.

14                    His daughter, Ivanka Trump, also has  
15          her own fragrance -- the name of which escapes  
16          me. I think it's called Ivanka -- and through a  
17          separate licensing deal of her name brand and  
18          likeness.

19          Q.     The last category, you mentioned home  
20          furnishings.

21                    So can you give me an example of the  
22          use of the Trump mark -- house mark or  
23          derivative -- on home furnishings?

24          A.     So over the years, there is a lot of  
25          different home-related projects.

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2           There is a line called Trump Home,  
3       where the Trump mark is licensed along with I  
4       believe some derivative marks to brand a series  
5       of home furnishing products.

6           You've got Trump mattresses  
7       manufactured by Serta, sold through the country,  
8       throughout the world.

9           There are -- Trump Home, Trump  
10       mattresses -- I believe there are other home  
11       products.

12          There are candles. I think that would  
13       sort of fall within the accessory -- home  
14       accessory -- there are Trump candles.

15          I'm sure there is more that I'm  
16       missing.

17          Q.     Who owns -- or who is the owner of the  
18       Trump house mark or all these various formative  
19       Trump marks?

20          A.     Donald Trump.

21          Q.     Donald Trump.

22                 Why does Mr. Trump personally own the  
23       marks?

24          A.     For tax planning purposes.

25                 I'm not a tax guy -- but, yeah.

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2 Q. Let's talk about the Trump books that  
3 you mentioned.

4 A. Sure.

5 Q. You mentioned earlier that the Trump  
6 house mark is used prominently on many of Mr.  
7 Trumps books.

8 Just speaking about the books  
9 generally -- who writes Mr. Trump's books?

10 A. So Mr. Trump either writes them  
11 himself or writes them, like, with usually a  
12 coauthor, and -- go ahead.

13 (Pause)

14 Q. Are you familiar with his books?

15 A. Yes.

16 He has authored, I believe, more than  
17 20 different types of books over the years.

18 I would say the common denominator in  
19 all of them is that they are all business books.  
20 They are all sort of focused on business,  
21 business issues, how to succeed in the business  
22 world, how to succeed in real estate, how to  
23 negotiate, how to, you know, beat your  
24 competitors.

25 You know, all the books have used

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2           his -- the house mark prominently in a number of  
3           ways -- either just sort of as when it lists him  
4           as the author. That's always prominently  
5           displayed, usually with picture. He's usually  
6           on the cover -- I mean, on the cover of every  
7           book.

8                       And a lot of books -- most of the  
9           books -- use the Trump house mark with some  
10          other sort of title, like: Trump: The Art of  
11          the Deal, which was his first book.

12                     You are talking about over the last,  
13          you know, 20-some-odd years he's written, you  
14          know, a lot of books -- 20 books. And they all  
15          have been largely successful.

16               Q.     You said The Art of the Deal was his  
17          first book.

18                     Do you know when that was published?

19               A.     Early 90's -- '92, I think. That was  
20          I think, to date his most successful book.

21                     A lot of his books have appeared on  
22          the New York Times best seller list.

23                     I believe that one was on the New York  
24          Times best seller for in excess of, like, 50  
25          weeks. Sold like a million copies.

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2           His current book, which came out a  
3 week ago, called Crippled America, which  
4 features a prominent picture of himself on the  
5 cover; his name on the bottom -- excuse me.

6           (Pause)

7           A.     Yeah -- his most recent book, which is  
8 called Crippled America, came out last week.  
9 And he had a book signing.

10           I believe -- I'm told it's on the New  
11 York Times best seller list already. He had a  
12 book signing last week in Trump Tower, which was  
13 supposed to go from 11:00 to 1:00. It wound up  
14 going until, like, 4 o'clock. He sat there and  
15 signed, you know, a couple thousand books.

16           MS. REED: Mark this as Exhibit 2.

17           (Exhibit 2, Multipage document bearing  
18 images (no Bates Nos.), marked for  
19 identification)

20 BY MS. REED:

21           Q.     I just handed you Exhibit 2.

22           Do you recognize this Exhibit -- feel  
23 free to take time to look through the pages.

24           (Pause)

25           A.     Yeah -- so I do recognize this. These

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2           are the covers of many of his books.

3                   I believe there are more. But this is  
4           definitely a representative sample.

5                   And as I said, they all -- you know,  
6           the common thread is they all use the Trump  
7           house mark extensively.

8                   Trump: The Art of Deal; Trump: How  
9           to Get Rich.

10                  So they all have the name Trump -- the  
11          Trump house mark -- in the title, as well as,  
12          obviously, you know, when it lists the author.

13           Q.     So let's go through each of the book  
14          covers.

15                  So the first one -- can you read the  
16          title and then describe how the Trump house mark  
17          is being used on the cover?

18                  And I'll ask the same question for  
19          each of the pages.

20           A.     Yeah -- so the title of the book is  
21          Trump: The Art of the Deal. The house mark is  
22          used to, I would say, establish the brand and  
23          gain the attention of the reader.

24                  It, you know -- it's used the way it  
25          is -- it appears consistent, not only with the

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2           way it appears on a lot of these covers, but  
3           also on a lot of Mr. Trump's properties.

4           Q.     Can you describe what it looks like --  
5           how it appears?

6           A.     Yeah -- so the way it appears on  
7           Trump: The Art of the Deal and others is, you  
8           know, large, thick, gold -- you know, rich  
9           gold -- lettering. And that has sort of become  
10          the -- that's sort of become synonymous, I  
11          think, with Mr. Trump as a business person and  
12          as a public figure around the world -- both, you  
13          know -- obviously, in the United States for  
14          many, many years; internationally as well.

15                 It's also this kind of gold -- thick,  
16                 gold, rich lettering in this sort of font is  
17                 used prominently on books. It's used  
18                 prominently on buildings.

19                 The building that I work in -- Trump  
20                 Tower -- if you have been to the front of it on  
21                 Fifth Avenue, it has very thick, prominent, gold  
22                 lettering almost identical in font to this. It  
23                 stands out.

24                 It's -- it's, you know, it's become a  
25                 worldwide tourist attraction. And every day I

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2           leave my building, people take pictures either  
3           across the street or right in front -- in front  
4           of that gold lettering. That has sort of become  
5           part of -- not sort of. It has become part of  
6           his worldwide brand.

7           Q.     Let's turn to page 2 of Exhibit 2.

8                     Can you read the title of this book  
9           cover and describe again the use of the Trump  
10          mark -- the appearance of it?

11          A.     So the book is called: Trump: How to  
12          Get Rich: Big Deals from the Star of The  
13          Apprentice. And this book was written by Mr.  
14          Trump with Meredith McIver, who co-writes a lot  
15          of his books.

16                    And again, the name -- the Trump house  
17          mark is used to sort of -- it's used in big,  
18          gold, prominent, thick lettering consistent with  
19          how its used in Trump: The Art of the Deal, and  
20          other books, and other properties. And it's,  
21          you know, sort of done that way to convey, you  
22          know, strength, and power and, you know, Mr.  
23          Trump's, you know, competitive nature in  
24          business.

25                    And all these books, as I said before,



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2           are about how to succeed in business, how to --  
3           how to, you know, overcome, and beat, and  
4           succeed over your competitors.

5           Q.     Let's turn to page 3 of Exhibit 2.

6                     Again, can you read the title of this  
7           book and describe how the house mark appears on  
8           the cover?

9           A.     The book is called: Trump: The Art  
10          of the Comeback. And the name appears very  
11          consistent with the other books that we just  
12          went through -- large, gold, prominent, thick  
13          lettering.

14          Q.     Next page -- again, can you read the  
15          title of the book and describe how the house  
16          mark appears on this cover?

17          A.     The book is called: Think Like a  
18          Champion. And the Trump name is used  
19          prominently to indicate the author, which is  
20          Donald Trump. And again, the Trump house mark  
21          is used in the same way as the other books --  
22          you know, big, thick, gold lettering, the same  
23          as on buildings, the same on -- as sales and  
24          marketing materials in the United States and  
25          around the world.

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2           Q.     Can you read the -- do you see on this  
3 page that there is sort of a notation in a  
4 circle?

5           A.     Yeah.

6           Q.     Can you read what that says?

7           A.     Yeah.

8                   It says: An informal education in  
9 business and life -- which sort of conveys the  
10 subject matter of the book, which is Mr. Trump  
11 giving his -- his advice in business and how to  
12 succeed in business, how to succeed in life,  
13 how to prevail over your competitors and win in  
14 business, and life, and negotiating, and  
15 business deals.

16          Q.     Next page -- again, read the title of  
17 the book and how the house mark appears on the  
18 cover page of the book.

19          A.     So the title of this book is: Think  
20 Big and Kick Ass in Business and Life. The  
21 Trump house mark appears prominently at the very  
22 top in big, thick, prominent letters consistent  
23 with how it appears in all the other books.

24                   And, again, these are all -- these  
25 books all are providing readers with, you know,

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2           tips and advice on how to prevail and succeed in  
3           business and in life.

4           Q.     For this book, you said the title was:  
5           Think Big and Kick Ass.

6                     Is that -- then you described the  
7           Trump mark.

8                     Is the Trump house mark part of the  
9           title?

10                    Or is that -- how was the Trump mark  
11           actually being used for this book?

12           A.     I think it's being used in two ways.

13                    A lot of his books use the house mark  
14           as part of the title. Then they also have  
15           the -- they have the Trump name as part of the  
16           name of the author.

17                    This book has "Trump" along the top.  
18           It says: Trump and Bill Zanker,  
19           President/Founder of The Learning Annex.

20                    It is used -- I would say, in this  
21           situation it's being used both as part of the  
22           title, no different than Trump: The Art of the  
23           Deal.

24                    This is really: Trump: Think Big and  
25           Kick Ass. And it's also used prominently to

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2 show, you know, that he is involved in the  
3 authorship of this book.

4 Q. Okay.

5 Let's turn to the next page of Exhibit  
6 2.

7 Can you describe -- read the title of  
8 the book and describe how the house mark appears  
9 on the cover?

10 A. This book is called: Think Big. It  
11 looks to be another version of the prior book.  
12 And it is used -- the Trump house mark is used  
13 in the exact same way as I described for the  
14 prior.

15 Q. Next page?

16 Read the title and describe how the  
17 trademark appears?

18 A. This book is called: Trump Strategies  
19 for Real Estate: Billionaire Lessons for the  
20 Small Investor. And this book is -- again, in  
21 this book, you've got the Trump house mark being  
22 used prominently in the title consistent with  
23 everything we've talked about before. It is  
24 another example of using the Trump house mark  
25 and having it appear in big, thick, prominent

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2           letters to grab the reader's attention. The  
3           lettering is largely similar to the way it's  
4           used in all these other books and on various  
5           real estate projects and other, you know,  
6           licensing products around the world.

7                     Trump Tower is the example I keep  
8           giving -- sort of very similar to that as well.

9           Q.     Next page.

10                    Read the title of the book and  
11           describe how the house mark is being used on the  
12           cover of the book.

13           A.     The title is: Trump: Think Like a  
14           Billionaire: Everything You Need to Know About  
15           Success, Real Estate and Life. It is authored  
16           by Donald Trump with Meredith McIver. And the  
17           house mark is being used in two ways, again.

18                    One is as part of the title of the  
19           book: Trump: Think Like a Billionaire. It's  
20           also used prominently in gold in, again,  
21           prominent, thick lettering as part of the name  
22           of the author. And this book -- like all the  
23           other books -- sort of is another in the series  
24           of business and, you know, books on how to  
25           succeed in business, and prevail, and trump your

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2           competition.

3           Q.     Okay.

4                     The next page, please do the same.

5                     Read the title of the book and  
6           describe how the Trump house mark is being used  
7           on the cover of the book.

8           A.     This is called: Trump: Never Give  
9           Up: How I Turned My Biggest Challenges into  
10          Success. It's written by Donald Trump and  
11          Meredith McIver, again. I would say much the  
12          same as I said before -- which is its used in  
13          two ways.

14                    One is part of the title: Trump:  
15          Never Give Up. It's also used, you know, to  
16          indicate who the author is. And it is, again,  
17          used in, you know, thick prominent letters. In  
18          this case, it is surrounded by gold. Gold, you  
19          know, is sort of a color that Mr. Trump has  
20          had -- his brand has become known for around the  
21          world.

22                    Yeah -- and this book, like the  
23          others, is, again, about his big business --  
24          business stories from Mr. Trump about his  
25          business experiences, how he has prevailed over

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2           other parties in business and succeeded, you  
3           know. This one is called: How I Turned My  
4           Biggest Challenges Into Success. I think this  
5           book actually has a lot of case studies on  
6           particular projects that he worked on and how he  
7           succeeded in those projects.

8           Q.     The next page -- read the title and  
9           describe how the Trump house mark appears on the  
10          cover of this book.

11          A.     This book is called: Trump 101: The  
12          Way to Success. It's authored by Donald J.  
13          Trump with Meredith McIver. And this book --  
14          again the Trump name is used prominently, again,  
15          as part of the title and as part of the author.  
16          Same thing as before. It's always used in, you  
17          know, prominent, thick lettering to grab the  
18          reader's attention to let them know that this is  
19          a book by Donald Trump. In this case, in the  
20          name of the title, it is used also very  
21          prominently as before. Again, the gold appears  
22          as part of the author's name: Donald J. Trump.  
23          Gold, as I said before -- synonymous with his  
24          brand.

25                   (Pause)

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2           Q.     Next page, read the title of the book  
3           please, if you can, and describe how the house  
4           mark appears on the cover of this book.

5           A.     This book is called: Trump: The Way  
6           to the Top: The Best Business Advice I Ever  
7           Received. The name appears in the title on the  
8           cover in the very similar, big, thick, prominent  
9           lettering. Though the name Trump is in black,  
10          it is surrounded by gold. And it appears in the  
11          subtitle: The Best Business Advice I Ever  
12          Received is -- it looks to be another shade of  
13          gold, consistent with everything I've said  
14          before.

15          Q.     Next page, describe -- read the title  
16          of the book and describe how the house mark  
17          appears on the cover of this book.

18          A.     The book is called: Trump: Surviving  
19          at the Top, Donald J. Trump with Charles --  
20          looks like -- Leerhsen. The Trump house mark is  
21          used consistent with how I've described it  
22          before -- very prominent, thick lettering, both  
23          in the name of the title -- Trump: Surviving at  
24          the Top -- and also down below in the name of  
25          the author.



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2                   What stands out to me is in this case,  
3       the lettering is very consistent with the type  
4       of lettering and the style of lettering that is  
5       used on books, properties. It's almost  
6       identical to how it appears on the top of -- on  
7       the front of Trump Tower, which is the  
8       headquarters of The Trump Organization and sort  
9       of the building that made Mr. Trump, you know,  
10      what he is today.

11           Q.     Two more to go.

12                   Next one?

13           A.     Next book is called: Trump: The Best  
14       Real Estate Advice I Ever Received: 100 Top  
15       Experts Share Their Strategies. My  
16       understanding is this book is a compilation of  
17       stories from different successful business  
18       people, how they have succeeded in business,  
19       offering their strategies, with -- I believe  
20       there is a forward of his other -- this includes  
21       also stories from Mr. Trump himself. Again, the  
22       house mark used very prominently -- very thick  
23       lettering at the top, which is where virtually  
24       the name appears in all these books as part of  
25       the title -- lettering in a font and style very

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2           consistent to everything that we've seen before.

3           Q.     The last book -- please read the title  
4           and describe how the house mark appears on the  
5           cover of this book.

6           A.     The book is called: Trump: The Art  
7           of Survival, written by Donald J. Trump and  
8           Charles Leerhsen. The brand -- the house mark  
9           is used as the name of -- part of the name of  
10          the book. The lettering is very consistent with  
11          what we have seen before -- thick, prominent,  
12          bold lettering, you know, right across the top.

13                 Again, this is very consistent with  
14          how the Trump name and house mark is used in --  
15          to mark it products -- real estate products,  
16          personal products; used on, you know,  
17          business -- on buildings like Trump Tower.

18          Q.     So you mentioned some of the books  
19          contain the house mark in bold, gold lettering.

20          A.     Right.

21          Q.     Why does Mr. Trump use gold lettering  
22          for some of his books.

23                 And you mentioned properties -- some  
24          of his properties as well?

25          A.     I think gold over the years -- he's

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2           used gold over the years -- from the beginning  
3           of his career throughout -- to convey power,  
4           strength, to, you know, a sort of aggressive  
5           approach to business that has become, you know,  
6           sort of his brand -- part of his brand, and  
7           synonymous with him, and what people expect from  
8           him all over the world.

9                     My building, Trump Tower, has -- you  
10          know, the entrance is wrapped in gold. And when  
11          you come through the front doors, the lettering  
12          "Trump Tower" appears very prominently -- much  
13          the way it appears in this book. And that is  
14          sort of as a sign of strength.

15                    It has become, you know -- that sort  
16          of way of conveying the brand has become, you  
17          know, world known and has made our building a  
18          tourist attraction.

19                    When you walk into the building the  
20          gold -- the gold color is everywhere. It is on  
21          the -- called lintels -- the pieces that, you  
22          know, as you come in, there are sort of pieces  
23          that extend up to the top of the ceiling which  
24          divide the window panes.

25                    The flooring is -- I believe it's

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2           called bronzino -- which is a gold sort of based  
3           marble. It's everywhere. There is gold  
4           mirroring in the building. There is a waterfall  
5           with -- I believe it has gold behind it. All of  
6           the trim throughout the building is gold -- gold  
7           in color. If you come up to my office on the  
8           26th floor where Mr. Trump sits -- I sit down  
9           the hall -- you walk in. It says The Trump  
10          Organization in gold. Behind it is sort of a  
11          gold panel. There is -- I believe there is a  
12          gold couch. Gold is -- is what he, for -- since  
13          the beginning of his career, has used to  
14          establish his brand as a reflection of sort of  
15          the basic pillars on which he operates in the  
16          business world, which -- strength, and power,  
17          and, you know, a competitive instinct.

18          Q.       And you sort of described generally  
19          what these books that we went over are about.

20                 But can you sort of provide more  
21          detail about what the general topic or subject  
22          matter is for these various books?

23          A.       Yeah -- the books are all sort of  
24          business related. They are all on how to  
25          succeed in business, how to succeed in life.

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2           From working with Mr. Trump over the  
3 past 10 years, I can tell you he is sort of a  
4 nonstop guy. He works around the clock. He, you  
5 know, is very aggressive in business. He's very  
6 aggressive in life.

7           MR. UNDERHILL: Relevancy objection.

8           A. He likes to prevail. He likes to  
9 prevail over those who he is on the other side  
10 of the table against -- whether it be  
11 negotiating, whether it be any kind of deal or  
12 project he's working on. And he --

13           MR. UNDERHILL: Objection, relevancy.

14           THE WITNESS: You want to let me  
15 finish?

16           Then you can --

17           MR. UNDERHILL: I am sorry. Go ahead.

18           A. -- and the books are all sort of  
19 reflective of that insight.

20           The mantra, I would say -- which is to  
21 prevail, and always do your best, and do the  
22 best you can, and get the best of a deal over  
23 those who are adverse to you or your  
24 competitors.

25           MR. UNDERHILL: Objection, relevancy,

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2           narrative.

3       BY MS. REED:

4           Q.     Can you describe the type of consumers  
5           that buy these books?

6           A.     I think it sort of runs the gamut.

7                   I know his books -- like The Art of  
8           the Deal -- is used in -- as part of  
9           educational, for educational purposes in  
10          universities. It's his first book, his most  
11          well-known book. It's regarded by many as, you  
12          know, sort of a business Bible. So you've got  
13          people buying his books for educational purposes  
14          to use as parts of education.

15                  You've got the general business  
16          world -- people who are interested in business,  
17          people starting out in business, people seeking  
18          his advice in business -- yeah.

19          Q.     You mentioned The Art of the Deal was  
20          his first book and most popular book?

21          A.     Yeah -- he's had a lot of business --  
22          he's had a lot of successes with his books to  
23          date. The Art of the Deal to this day remains  
24          sort of his most well-known book, and a New York  
25          Times best seller 50-plus weeks, over a million

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2           copies sold -- very successful book.

3           Q.     Okay.

4           MS. REED: I want to enter another  
5           exhibit into evidence.

6                     (Exhibit 3, Multipage document bearing  
7           images (no Bates Nos.), marked for  
8           identification)

9       BY MS. REED:

10          Q.     Mr. Garten, you mentioned use of the  
11       Trump house mark on various properties in gold  
12       lettering.

13                 Can you describe -- or, sorry -- do  
14       you recognize what was handed over to you as  
15       Exhibit 3?

16                 And if so, can you describe what is  
17       contained in this exhibit?

18          A.     This appears to be a sort of snapshot  
19       from the Trump website -- or a link to the Trump  
20       website -- which is for -- looks like it's  
21       dedicated to the building of Trump Tower.

22                 And these are the letters I was  
23       referring to in the sort of font and gold  
24       styling that I was referring to earlier.

25          Q.     You are reading the first page of this

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2 Exhibit 3, correct?

3 A. Yes, page 1 of Exhibit 3.

4 Q. Can you turn to page 2?

5 A. Yes.

6 Q. Can you describe what this page shows?

7 A. This is a snapshot from the website  
8 for the Trump Taj Mahal hotel and casino in  
9 Atlantic City. Again, you've got the Trump name  
10 and lettering on the upper-left corner of page 2  
11 in gold consistent with what we have talked  
12 about before.

13 Q. Turn to page 3 -- or actually let's  
14 keep turning to the page that reads: Trump  
15 Entertainment Resorts at the top of the page.

16 Can you describe what this shows?

17 A. This is a link -- this is a snapshot  
18 from a website. Appears to be from the Trump  
19 Entertainment Resorts website.

20 Trump Entertainment Resorts is a  
21 publicly traded company that operates and owns  
22 various casinos Atlantic City, including the  
23 Trump Taj Mahal.

24 Q. Can you describe the use of the Trump  
25 house mark in connection with Trump



1           ALAN GARTEN, ESQ. - DIRECT - BY MS. REED

2           Entertainment Resorts?

3           A.     The Trump house mark is used  
4           prominently as part of the sort of marketing and  
5           promotion of the Trump Taj Mahal. The house  
6           mark appears not only on the building but also  
7           on -- all the sales and marketing -- including  
8           on this website.

9                     And it is sort of the face of, you  
10           know, sort of -- the house mark is sort of the  
11           face or brand associated with the Taj Mahal  
12           project.

13                    And as you can see from the picture,  
14           gold is sort of everywhere on the building  
15           itself, along the trim. And on the website,  
16           there is different sort of grading shades of  
17           gold in the lettering and highlights.

18           Q.     Next page -- can you identify what  
19           that page shows?

20           A.     This is a snapshot from a website for  
21           Trump International Realty. Trump International  
22           Realty is the brokerage -- real estate  
23           brokerage -- arm of The Trump Organization.  
24           This particular snapshot shows a picture of  
25           Trump International Hotel in Las Vegas.

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2           The Trump house mark is used  
3 prominently in the name Trump International  
4 Realty in the same similar lettering and also on  
5 the top of Trump Hotel in Las Vegas. The Trump  
6 house mark appears across the top in, you know,  
7 highlighted, lit-up, thick, gold lettering.

8           Q.     Turn to the next page of Exhibit 3 and  
9 identify what that page shows?

10          A.     This is a link -- this is, rather, a  
11 snapshot from a website for Trump National Golf  
12 Club in Philadelphia. And the Trump name  
13 appears on this along with the Trump crest  
14 prominently as part of the name of Trump  
15 National Golf Club. Again, you see gold  
16 throughout. The Trump name also appears sort of  
17 below in the upper-left corner, just to I think  
18 affiliate itself back with The Trump  
19 Organization.

20          Q.     Turn a couple pages. It is the page  
21 that shows Trump International Hotel & Tower logo.

22                 Can you first tell us what Trump  
23 International Hotel & Tower is?

24                 And then describe the appearance of  
25 the logo?

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2 A. Trump International Hotel & Tower is  
3 a -- is the name brand and registered trademark  
4 for the line of Trump hotels which are part of  
5 the Trump Hotel Collection. Trump International  
6 Hotel & Tower is sort of the base name for all  
7 of the hotels.

8 So there is Trump International Hotel  
9 & Tower Chicago, Puerto Rico, Hawaii.

10 Other hotels use just Trump -- I  
11 believe Trump International Hotel. They use  
12 sort of, you know, derivations of that.

13 It's always used or frequently -- it's  
14 always -- it always appears in sort of big thick  
15 lettering and most frequently appears in gold.

16 Q. How does it appear in this  
17 particular -- on this page in Exhibit 3?

18 A. Consistent with that -- which is sort  
19 of big, thick lettering and in gold.

20 Q. The last page of Exhibit 3 -- can you  
21 identify what this logo is and describe how it  
22 appears?

23 A. This is the logo and name for Trump  
24 Park Avenue, which is the former Delmonico  
25 Hotel, which Mr. Trump converted to residential

1           ALAN GARTEN, ESQ. - DIRECT - BY MS. REED  
2           condominium, maybe 10 to 15 years ago. And it's  
3           called Trump Park Avenue. And this is the  
4           Trump -- the picture of the name of the hotel --  
5           not the hotel -- the residential condominium and  
6           the crest associated with it.

7           THE WITNESS: Can we take, like, a  
8           two-minute break?

9           MS. REED: Sure.

10          MR. UNDERHILL: As long as you like.

11          (Recess from 11:13 a.m. to 11:24 a.m.)

12       BY MS. REED:

13           Q.     So we just talked before the break  
14           about Mr. Trump's books. And you explained that  
15           they relate to business advice and education.

16                   Are there any other goods and services  
17           that Mr. Trump, or the organization, offer under  
18           the Trump house mark relating to business,  
19           education or advice?

20           A.     There was Trump University, which was  
21           a program -- sort of an educational program --  
22           for people wanting to learn about business. And  
23           that was principally owned by Mr. Trump and  
24           under Mr. Trump's guidance and direction; and  
25           used the Trump house mark as, you know,

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2           obviously as in the name of it itself and also  
3           as part of the sales and marketing efforts.

4           In addition, Mr. Trump from time to  
5           time conducts lectures around the country --  
6           around the world, I should say -- on business  
7           issues. It's either business related or -- it's  
8           basically a combination of business and sort of  
9           motivational speaking.

10           And his -- the Trump house mark along  
11           with his image are used to market and promote  
12           and advertise those lectures.

13           Kind of all I can think of.

14           Q.     Switching gears -- earlier you  
15           testified concerning your role in connection  
16           with trademark policing -- in terms of policing  
17           the brand.

18           Can you explain as part of your  
19           responsibilities to police the brand what types  
20           of actions you've taken over the years in  
21           connection with the Trump brand?

22           A.     So the policing and enforcement of the  
23           Trump brand is sort of divided between what we  
24           do in-house and what we do through outside  
25           counsel -- like Hughes Hubbard, other firms.

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2 And both in-house and outside, we work  
3 together and to take steps to enforce and  
4 protect and police the use of the brand.

5 That can run the gamut from sending  
6 cease-and-desist letters, to filing WIPO actions  
7 over domain names -- W-I-P-O actions -- to  
8 taking actions with the US PTO -- whether it be  
9 filing oppositions to other marks being filed  
10 and engaging in sort of full-blown, you know,  
11 trademark infringement litigation or opposing  
12 others trying to file marks -- sort of  
13 everything.

14 Q. How do you become aware of marks that  
15 you may want to potentially oppose?

16 A. We -- a couple ways.

17 We have -- through outside counsel, we  
18 use monitoring services to monitor the filings  
19 of trademarks, to monitor the filings of  
20 registrations of domain names. We do some -- we  
21 have outside counsel do that.

22 We also do some of those things  
23 in-house.

24 When we are notified as to a filing,  
25 we will then review it internally. We will have

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2           outside counsel review it. We will then sort of  
3           caucus and get together and decide what the best  
4           course of action is in each particular case.

5           Q.     How did you become aware of the  
6           applicant's trademark -- Trump Your  
7           Competition -- that's at issue in this  
8           proceeding?

9           A.     I was notified by counsel -- trademark  
10          counsel, or intellectual property counsel.

11                 Then we took steps to file opposition.

12           MS. REED: I'd like to enter another  
13          exhibit into evidence. It is Exhibit 4.

14                 (Exhibit 4, Single-page document  
15          bearing image (no Bates No.), marked for  
16          identification)

17 BY MS. REED:

18           Q.     Mr. Garten, do you recognize the  
19          document that was handed to you marked as  
20          Exhibit 4?

21           A.     Yes.

22                 This is a picture of Trump Your  
23          Competition, which is the application for the  
24          mark that we are opposing.

25           Q.     Do you recall when you became aware of

1           ALAN GARTEN, ESQ. - DIRECT - BY MS. REED

2           this trademark?

3           A.     When I was notified by counsel of the  
4           original application filing by the respondent.

5           Q.     How would you describe the logo that  
6           appears in Exhibit 4?

7           A.     Well, in the name Trump Your  
8           Competition, the name "Trump" is at the top. It  
9           is featured prominently in lettering that is  
10          highly consistent with the type and style and  
11          font of lettering that is used by the Trump  
12          organization and Mr. Trump to reflect his --  
13          well, first of all, let me take a step back.

14                 It's usually the name Trump, which is  
15          our Trump house mark.

16                 Second it's being used in a way -- in  
17          a style of lettering and color -- that is  
18          synonymous with my client and his business  
19          endeavors around the world.

20                 It is consistent, I would say, in  
21          every respect with the way the name Trump  
22          appears on many -- most, if not all, of Mr.  
23          Trump's books.

24                 It is consistent with the way it  
25          appears on many of Mr. Trump's most well-known



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2       buildings, including Trump Tower, and many  
3       others.

4           It -- not -- is the font style  
5       consistent? Not just is the font style  
6       consistent, but the coloring itself -- the  
7       gold -- is generally associated with Mr. Trump  
8       and his business interests.

9           And the gold is used on this Exhibit 4  
10      much in the same way that it's used on his  
11      books, and on his properties, and golf courses,  
12      and on a lot of his business interests.

13          Even the sort of gradient -- the  
14      change in coloring -- is consistent with what  
15      I've seen on -- in the Exhibit 2 -- examples of  
16      the book covers.

17          And it's also consistent with what  
18      I've seen over the years in the way the Trump  
19      house mark is used to market various projects  
20      and products.

21          MS. REED: I'd like to hand you the  
22      last exhibit, which is Exhibit 5.

23  
24  
25

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2                   (Exhibit 5, Three-page document

3           bearing heading on first page:

4           <http://www.trumpyourcompetition.com/> (no Bates

5           No.), marked for identification)

6   BY MS. REED:

7           Q.     Can you identify what this exhibit

8           appears to be to you?

9                   Look through the pages and take some  
10          time if you need.

11                   (Pause)

12          A.     This is -- this consists of a series  
13          of screen shots from the Trump Your Competition  
14          website: [Trumpyourcompetition.com](http://Trumpyourcompetition.com).

15                   I can't say the exact dates that  
16          appeared on the Internet.

17                   But I know at one point it did.

18                   And this is an advertisement for the  
19          services that are being offered under the Trump  
20          Your Competition name, which --

21          Q.     What's your understanding of those  
22          services that are being offered under the Trump  
23          Your Competition mark?

24          A.     Well, it's -- my understanding is it  
25          is -- it is both business advice and

1           ALAN GARTEN, ESQ. - DIRECT - BY MS. REED  
2           consulting on how to advertise on the Internet  
3           and other, you know, methods of social media.

4           And, you know, it's basically an  
5           educational -- it's both a business consulting  
6           and educational sort of program.

7           And it is using, you know, the Trump  
8           name -- the Trump house mark -- to, I believe,  
9           mislead consumers into believing that this  
10          business enterprise is associated with the Trump  
11          organization and Donald Trump.

12          And I'm noticing here -- which is not  
13          on Exhibit 4 -- is that even the way "Trump" is  
14          used on page 1 of Exhibit 5, where it says:  
15          Trump Your Competition -- not only is the  
16          lettering consistent with the style of lettering  
17          and the color consistent with the way the Trump  
18          name -- the house mark -- is often used --  
19          frequently used over the last, you know, 20-plus  
20          years -- but it also has even -- I can see on  
21          this copy -- lines going through the back, which  
22          is frequently used by the Trump organization and  
23          its affiliated companies when using the name.

24          This, to me, represents a straight  
25          ripping off of my client's intellectual property and

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2           mark.

3                   And not only that, but he is selling  
4           business advice -- marketing, advertising  
5           advice -- which is a line of business that my  
6           client is well-known for -- either through  
7           books, speeches, or courses like Trump  
8           University.

9                   So -- I don't know. When I see this,  
10          I just -- to me it speaks loudly of someone  
11          trying to trade off my client's marks.

12          Q.       Just to turn back to Exhibit 4 -- you  
13          described the appearance of the mark,  
14          particularly the lettering "Trump" in gold.

15                   Can you read the full mark that  
16          appears -- full logo that appears on this page  
17          and explain why this is concerning to you and  
18          your client?

19          A.       Sure.

20                   It says: Trump Your Competition.

21                   I already described how the Trump name  
22          is used.

23                   Then it says: Dominate, decimate,  
24          destroy.

25                   While I can't say those are exact

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL  
2           words that, you know, my clients would use in  
3           their sales and marketing, it's certainly  
4           consistent with a style of active and aggressive  
5           business strategies. And it's consistent with  
6           the sort of overall mantra that my client  
7           conveys through his books and lectures and what  
8           he has become known for -- which is a successful  
9           and aggressive businessperson.

10                   MS. REED: I don't have any further  
11           questions.

12                   So I just want to move to introduce  
13           the Exhibits 1 through 5 into evidence.

14                   MR. UNDERHILL: My objection:  
15           Relevancy, lack of foundation for all exhibits.

16                   MS. REED: Mr. Underhill, do you want  
17           to cross-examine the witness?

18                   Yes. Okay.

19                   So we are going to switch seats.

20                   (Pause)

21           CROSS-EXAMINATION

22           BY MR. UNDERHILL:

23                   Q.     Hello, Mr. Garten.

24                   A.     Hi.

25                   Q.     Thanks for attending. I really

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 appreciate it. I know you are a very busy man.

3 A. No problem.

4 Q. General counsel -- that means, of  
5 course, that you are a licensed attorney in New  
6 York?

7 A. Correct.

8 Q. Do you consider yourself to be a  
9 trademark attorney?

10 A. A trademark attorney?

11 I do now.

12 Q. You have filed oppositions yourself,  
13 personally, as the attorney of record.

14 MS. REED: Objection as to relevancy.

15 A. I may have.

16 I can't recall offhand.

17 Q. You were the attorney of record on  
18 this case for a while?

19 A. Yes.

20 Q. Have you been the attorney of record  
21 in other trademark options?

22 A. I believe I am now.

23 Q. And you understand that Donald J.  
24 Trump is the opposer in this case?

25 A. Yes.

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2 Q. Is he aware of this case?

3 A. Generally, he's aware of -- yes, he  
4 would be aware of this case -- sure.

5 Q. So whomever filed this case as  
6 attorney of record in the beginning had Mr.  
7 Trump's authorization for filing the lawsuit?

8 A. Absolutely --

9 MS. REED: Object.

10 To the extent that it calls for  
11 disclosure of any attorney-client privileged  
12 communications, you can answer the question.

13 But don't disclose any communications  
14 between counsel and Mr. Trump.

15 A. Yes.

16 Q. As an attorney, you understand that  
17 certain questions I ask you regarding Mr.  
18 Trump -- his opinion about things, his  
19 motivation, his interest in this case -- could  
20 rightfully be objected by legal counsel as being  
21 something that would breach attorney-client  
22 privilege.

23 A. Yes.

24 (Pause)

25 Q. Okay.

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2                    You mentioned during the direct  
3 examination that Mr. Trump owns hundreds of  
4 marks.

5           A.     Yes.

6           Q.     Is that true?

7                    MS. REED:  Objection, misstates --  
8 misstates the testimony.

9 BY MR. UNDERHILL:

10           Q.     Can you restate what you said  
11 regarding that?

12           A.     I don't remember exactly what I said.

13                    But certainly he does -- he is the  
14 owner of hundreds of marks.

15           Q.     Okay.

16                    Regarding any of those registered  
17 marks, do any of them claim gold -- the color  
18 gold -- as a feature of that mark?

19           A.     I wouldn't know offhand.

20           Q.     Okay.

21           A.     I would assume that's available in  
22 public records.

23           Q.     Sure.

24                    I will disclose I haven't found it.

25           So I'm assuming that it's true that he has no



1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2           marks that are registered that gold --

3                   MS. REED:  Objection to testimony  
4           being given by opposing counsel.

5                   MR. UNDERHILL:  Okay.

6                   MS. REED:  That's not a question.

7           Q.     Is it you personally who made the  
8           decision for this case to be filed?

9           A.     I don't recall.

10          Q.     As general counsel, you oversee  
11          litigation like this?

12          A.     Yes.

13          Q.     What does that mean?

14                  Do you manage the litigation?

15          A.     Yes.

16          Q.     And trial counsel would report to you?

17          A.     Yes.

18          Q.     Are you aware that a gentleman by the  
19          name of Anthony Joseph Seruga previously had a  
20          registered mark that was registration No.  
21          3095214?

22                  And the mark was Trump Your  
23          Competition.  And it expired and went dead at  
24          some point.

25                  Do you know that?

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2 A. Not as I sit here.

3 Q. You testified about your internal  
4 protocols and systems where you would become  
5 made aware of marks that you might want to  
6 contemplate opposing.

7 Is that true?

8 A. Yes.

9 Q. So does that system automatically pull  
10 for your attention any application that would  
11 have the word "Trump" in it?

12 A. Generally, yes.

13 Q. So, then, it would be likely that this  
14 particular application that was filed on  
15 February 5, 2005, for Trump Your Competition may  
16 have come to your attention.

17 A. I started working there in December of  
18 2006.

19 Q. So this predates that.

20 Who was handling trademark litigation  
21 for the Trump organization then?

22 A. The prior general counsel.

23 Q. Who was?

24 A. It would have been a gentleman by the  
25 name of, probably, Bernie Diamond.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. You are not sure about the identity of  
3 your predecessor?

4 A. No, I know who the predecessor is.  
5 You asked me who would have been  
6 handling it.

7 Q. Before you became attorney of record  
8 on this case, who was the attorney of record  
9 prior to that?

10 A. I don't know.  
11 I'm sure that's available in the  
12 public records, too.

13 Q. You don't know who you fired?  
14 I'm assuming you terminated the  
15 attorney on the case.

16 MS. REED: Objection, assumes facts  
17 not in evidence.

18 A. It may have been Fross Zelnick law  
19 firm.

20 Q. I think it was, yes.

21 MS. REED: Objection to testimony by  
22 opposing counsel.

23 Q. Did you review the pleas on this case  
24 when it was filed -- the actual notice of  
25 opposition?

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2 A. I may have. I don't remember one way  
3 or the other. I review a lot of papers.

4 Q. Would you allow an opposition to be  
5 filed without reviewing the pleas prior to them  
6 being filed?

7 A. Under my oversight?

8 No.

9 (Pause)

10 A. I just don't have any specific  
11 recollection one way or the other.

12 Q. Have you reviewed the notice of  
13 opposition that was filed by James D.  
14 Weinberger?

15 A. Briefly.

16 Q. Did you review it prior to it being  
17 filed?

18 MS. REED: Asked and answered.

19 Q. When did you first review it?

20 A. I don't recall when I first reviewed  
21 it.

22 I've reviewed it since.

23 But I don't recall the first time I  
24 reviewed it.

25 Q. Do you have an understanding about

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL  
2           what the causes of action are within the  
3           petition?

4           A.     I would have to take another look at  
5           it.

6           Q.     Do you recall that James D. Weinberger  
7           left the case -- he resigned at some point --  
8           and you replaced him as attorney of record?

9           A.     Yes.

10          Q.     Then at some point, you resigned and  
11          you were replaced by this firm -- Natasha Reed  
12          and --

13          A.     Yes.

14          Q.     -- Lena Saltos?

15          A.     Yes.

16          Q.     Do you agree that, during the course  
17          of this litigation, Donald J. Trump has engaged  
18          in no discovery requests?

19          A.     As I sit here, I'd have to go and look  
20          over the file.

21          Q.     As the general counsel who is  
22          supervising this litigation, wouldn't it be a  
23          normal course for you to review if discovery  
24          requests were being issued on your behalf of  
25          your client or not?

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2 A. Yes.

3 Q. Exhibit 4, I think -- is this Exhibit  
4 4?

5 The application that --

6 A. I'm sorry.

7 You want me to look at Exhibit 4?

8 Q. Yes, please.

9 Can we agree this is Exhibit 4?

10 A. Yeah.

11 Q. You have Exhibit 4 in front of you?

12 A. Yes, I have it in front of me.

13 Q. Okay.

14 Do you know whether or not the  
15 application that Mr. Trump is opposing claims  
16 any color at all as a feature?

17 A. I don't know that as I'm sitting here,  
18 no.

19 I would have to read the papers and  
20 see what the application is.

21 Q. Do you know whether or not this  
22 application that Mr. Trump is opposing is a  
23 so-called "typed drawing mark"?

24 A. I don't know.

25 Q. Do you know what a "typed drawing

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2           mark" is?

3           A.     No.

4           Q.     Do you know that some marks are simply  
5           the words with no color, or drawing, or any  
6           artwork claimed as part of the feature?

7           A.     Not sure I understand the question.

8           Q.     I beg your pardon?

9           A.     I'm not sure I understand what you are  
10          asking me.

11          Q.     Okay.

12                 Regarding the application that is  
13          being opposed by Mr. Trump, in terms of the  
14          application itself, and any and all elements of  
15          that mark as described in the application --  
16          what is it specifically about the application  
17          that you are objecting to?

18          A.     Whatever I'm objecting to I believe  
19          would be set forth in our papers.

20          Q.     So you don't independently recall what  
21          the objection would be?

22          A.     It's not a memory test.

23                 You are asking me -- if you want to  
24          show me the document, I can read it into the  
25          record.

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2                   But, no, I don't independently  
3 memorize every document we filed.

4           Q.     The Trump house mark -- that would be  
5 essentially limited to the word "Trump."

6                   Am I understanding that correctly?

7           A.     I would agree with that, yeah.

8           Q.     Okay.

9                   Do you understand what the term  
10 "dilution" means regarding trademark law?

11          A.     Yeah, generally.

12                   I thought you were going to be asking  
13 me factual questions and not my background --  
14 testing me on terms in trademark law.

15          Q.     Do you understand what "dilution"  
16 means regarding trademark law?

17          A.     I have some understanding of what  
18 "dilution" means.

19          Q.     What evidence do you have, counselor,  
20 if any at all, that there has been dilution in  
21 the marketplace regarding my client's mark?

22                   MS. REED: Objection, calls for a  
23 legal conclusion.

24          A.     I would sort of refer that question to  
25 my outside counsel.



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2                       (Pause)

3           Q.     What evidence do you have -- or that  
4           you know about -- regarding confusion in the  
5           marketplace regarding the two marks -- any  
6           actual confusion?

7           A.     Well, what I can say is that, having  
8           overseen Mr. Trump's trademark portfolio and  
9           enforcement, I would say -- based on my  
10          experience -- anyone who encountered your  
11          client's attempted use of my client's mark would  
12          have reason to believe that your client's  
13          business is associated somehow -- or  
14          affiliated -- with my client's business.

15          Q.     That's your opinion.

16          A.     Yes -- my legal opinion.

17          Q.     Okay.

18                       Has anybody phoned your office who saw  
19          this and either thought it was involving Mr.  
20          Trump?

21                       Or even complaining in any way about  
22          it to you personally?

23          A.     No one has phoned me personally.

24                       But I can't say for the thousands of  
25          other people who work for the company that they

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2           have not received phone calls.

3           Q.     Do you remember what the goods and  
4           services description is for my client's mark?

5           A.     No.

6           Q.     Does Mr. Donald Trump own any  
7           registered marks that are specifically limited  
8           to the field of marketing?

9           A.     I don't know offhand.

10          Q.     Do you understand the usage of the  
11          word "Trump" in my client's mark is a verb  
12          rather than a noun?

13          A.     I don't know how your client -- I  
14          can't say how your client is intending to use  
15          it.

16                   I can tell you what I believe it  
17          appears he's doing -- which is to use the name  
18          "Trump" as a playoff of the Trump house mark --  
19          my client's Trump house mark.

20          Q.     That's your opinion.

21          A.     That's my opinion.

22                   But my opinion determines how and when  
23          to take action in situations when I believe  
24          others are attempting to infringe on my client's  
25          rights.

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2           Q.     Does Mr. Trump -- Donald Trump -- does  
3           he own any registered marks where the word  
4           "Trump" is specifically being used as a verb?

5           A.     I don't know. I can't think of -- I  
6           don't know. I mean, I think that would be sort  
7           of -- I don't know offhand.

8                     I'm not sure I understand the  
9           question, actually.

10          Q.     Can you think --

11          A.     I'm just -- I'm sorry.

12                    I was going to say: I think you are  
13          asking -- sounds to me it's more of an opinion  
14          question.

15                    I mean, I imagine people can sort of  
16          differ as to when it is being used as a verb and  
17          not.

18                    I'm not sure I understand the  
19          question.

20                    (Pause)

21          Q.     The registered trademark:  
22          Consciousness Trumps All -- would you agree the  
23          use of the word Trumps in there is used as a  
24          verb rather than a noun?

25          A.     Hard for me to sort of answer that

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2           question in the abstract.

3                     I'm not familiar with that  
4           registration. Not really sure what you are  
5           reading from and -- is that a registration --  
6           how it's being used -- I'd have to see how it's  
7           being used.

8           Q.     Okay.

9           A.     Sort of -- I'm trying -- I'm really  
10          trying to answer your question, just not sure I  
11          can -- that question.

12          Q.     Can you think of any sentence in the  
13          English language where "trump" is used as a verb  
14          and tell me?

15          A.     I'm familiar with trump being used in  
16          the -- as part of a card game, like a trump  
17          card. I have seen that.

18                     I know that certainly the word "trump"  
19          can be used as a word. I recognize that.

20                     I'm not sure of specific examples.

21                     But I'm not aware of any other  
22          situation where it's being used as a verb in  
23          commerce in a way that makes it appear as if it  
24          is associated with Donald Trump.

25          Q.     Approximately how many Trump marks --

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL  
2           that is, marks being filed not by your client,  
3           but by somebody else in the world -- how many  
4           "Trump:" marks come for your review filed as  
5           applications every year -- just approximately?

6           A.     Are you asking me how many times I'm  
7           alerted as to the filing of a mark --  
8           application for a mark using the name "Trump"?

9           Q.     Using the word "trump" -- but, yes.

10          A.     Really sort of differs year-to-year.  
11                 Now probably more than normal.

12          Q.     It's picked up, hasn't it? -- probably  
13           because of his candidacy as president, I would  
14           imagine?

15          A.     Everything has picked up.

16          Q.     Okay.

17                 I'm not going to submit this as an  
18           exhibit. I'm just going to offer it to you to  
19           refresh your memory.

20                 This is a list of recent marks that  
21           have been filed that use the word "Trump."

22           MS. REED: I'm sorry.

23                 Objection, lack of foundation.

24                 There has been no establishment that  
25           Mr. Garten has -- needs a refresher or does not

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 remember something.

3 Is there an outstanding question  
4 that's pending?

5 MR. UNDERHILL: I haven't had a chance  
6 to ask it.

7 THE WITNESS: Maybe ask me the  
8 question first, then show me what you want to  
9 refresh my recollection.

10 BY MR. UNDERHILL:

11 Q. Let's assume this is a list of recent  
12 marks that have been filed at the trademark  
13 office as applications.

14 Tell me if there is any in there that  
15 you would think you would want to object -- just  
16 based on the words alone.

17 A. I'm not prepared to do that.

18 MS. REED: I'm going to object.

19 This is asking for legal conclusions  
20 on whether something is infringement.

21 This document is not being submitted  
22 as evidence.

23 And it's just improper.

24 MR. UNDERHILL: Counsel, you have made  
25 your objection.

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2                   Are you instructing your client not to  
3 respond?

4           MS. REED: No, I'm not. He can  
5 answer.

6                   But I'm just making my objection for  
7 the record.

8           A.     Here is what I can tell you: I can  
9 tell you that when -- we take the protection and  
10 enforcement of my client's brand extremely  
11 seriously. We invest a lot of money in its  
12 efforts. It is his brand -- we believe to be  
13 one of his most valuable assets.

14                   And we don't cavalierly look at a list  
15 and throw darts at it and pick which ones we are  
16 going to, you know, oppose and which ones we are  
17 not.

18                   This is a process that isn't done  
19 sitting, you know, in a conference room in two  
20 minutes.

21                   It's something that's discussed  
22 internally. It's something that is consulted  
23 with outside counsel on. And a decision is  
24 made.

25                   It's not -- we are not a factory. We

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2           don't do this like a factory. We are very  
3           selective.

4                       And we tried to only oppose those that  
5           we have a good faith belief are going to  
6           infringe on our client's rights; and those that  
7           we believe are not, we don't.

8           Q.       Then how can you explain, Mr. Garten,  
9           that you authorized an opposition against the  
10          word mark "iTrump," which had a goods and  
11          services description of computer software for  
12          use in producing sound?

13          A.       I don't have to. I don't have to.

14                       That's a decision that's made in  
15          conjunction with my client after, you know --  
16          I'm not going to sit here and justify other  
17          legal actions I've taken. Because to do so  
18          would be disclosing confidential client --  
19          attorney-client communications.

20          Q.       So I'd have to ask Mr. Trump  
21          personally why he authorized that.

22          A.       No, because if I was sitting next to  
23          him I would object to that. Because that's a  
24          conversation -- that's a decision that's made in  
25          consultation with legal counsel and based on the



1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL  
2           advice of legal counsel.

3           Q.     Did you authorize personally authorize  
4           the filing of that opposition?

5           A.     I really don't recall one way or the  
6           other.

7                     I am familiar with it.

8                     But I don't recall if it was me or  
9           someone else who authorized it.

10           MS. REED: Can I just state for the  
11           record, Mr. Underhill, if you have exhibits or  
12           documents you would like to show Mr. Garten,  
13           that's perfectly fine -- and introduce them as  
14           evidence; then provide me a copy; and we could  
15           go through them.

16                     That might make it --

17           MR. UNDERHILL: Thank you.

18   BY MR. UNDERHILL:

19           Q.     Do you remember the iTrump case at  
20           all?

21           A.     Vaguely.

22           Q.     Do you remember how it resolved?

23           A.     I don't.

24           Q.     Do you remember whether that was a  
25           successful opposition?

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2 A. I don't.

3 MR. UNDERHILL: Let's go back to  
4 Exhibit No. 4, which I'm showing you.

5 THE WITNESS: Yeah, I have it.

6 BY MR. UNDERHILL:

7 Q. Is my client still using his mark in  
8 this fashion as shown in this color picture?

9 A. I don't know.

10 Q. Do you know when he first started  
11 using the mark like this?

12 A. Not offhand.

13 Q. Do you know if he's used the mark in  
14 other ways differing from this?

15 A. I don't know one way or the other.

16 Q. So the only information that you had  
17 regarding his usage of the mark is embodied in  
18 Exhibit No. 4 -- is a printout that was made  
19 from the Internet on one specific day?

20 A. I don't know that when this was  
21 printed out. I don't know how long it appeared  
22 on the Internet. I don't know if your client is  
23 using it in other ways that we're not aware  
24 of -- or I'm not aware of.

25 Maybe your client is using it exactly

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL  
2           the same way 100 different times. Maybe he has  
3           another website -- instead of called Trump Your  
4           Competition, it's called something else, but it  
5           has this. This is information you would have,  
6           not me.

7                         (Pause)

8           A.     I'm aware of him using it either  
9           currently or in the past having tried to use it  
10          this way.

11                       And to me, this is a sort of per se  
12          violation of my client's trademark rights,  
13          because he's clearly trying to play off of my  
14          client's brand.

15                       I'm sure you disagree.

16          Q.     Do you understand, Mr. Garten, that  
17          during the course of the plaintiff's discovery  
18          period, the plaintiff could have called anyone  
19          who works at my client's -- my client is a  
20          corporation -- anyone who works at that  
21          corporation, including the president, to ask --  
22          to be asked questions regarding the manner of  
23          usage for this mark?

24          A.     I'd have to consult with my legal  
25          counsel about that.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. Well you are an attorney.

3 You know what discovery is, right?

4 A. I am an attorney. And I do know what  
5 discovery is, yes.

6 Q. You know what -- you are familiar with  
7 all the general tools of discovery as a lawyer,  
8 aren't you?

9 A. I am.

10 Q. You know what requests for admissions  
11 are?

12 A. I do.

13 Q. And you know what requests for  
14 documents are -- to produce documents?

15 A. Yes.

16 Q. You know what a deposition is?  
17 Yes?

18 A. I know of all these tools.

19 Q. Interrogatories -- you know what those  
20 are?

21 A. Yes.

22 Q. And you sit here today unaware -- I  
23 mean, you are making assumptions. I understand  
24 that.

25 But if -- you are unaware of the

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL  
2           actual history of use of this mark by my client  
3           today, aren't you?

4           A.     I know of this use.

5                     If there are other uses, I'm not  
6           necessarily aware of them.

7                     My counsel may be aware of them.

8                     But I know of this use.

9                     (Pause)

10                    (Discussion off the record)

11       BY MR. UNDERHILL:

12           Q.     Mr. Garten, has Mr. Trump ever used  
13           his house mark in any way that has caused fraud?

14           A.     No.

15           Q.     Has he used the house mark in any way  
16           that has been deceitful?

17           A.     No.

18           Q.     The Trump University matter in San  
19           Diego -- are you familiar with that class action  
20           litigation?

21           A.     Extremely.

22           Q.     Are you a practicing attorney on that  
23           case in some way?

24           A.     I'm not counsel of record on that  
25           case, if that's what you are asking.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. Have you read the complaint on that  
3 case?

4 A. I have.

5 Q. Would you agree that the complaint  
6 concerns some fairly serious allegations  
7 regarding Mr. Trump?

8 A. We certainly take it seriously.

9 Q. Do you understand we are referring to  
10 the case which could be called Art Cohen versus  
11 Donald J. Trump?

12 A. Yes.

13 Q. A class action filed in the Southern  
14 District of California?

15 A. There's probably nobody more familiar  
16 with that case than me.

17 Q. Is Mr. Trump familiar with it?

18 A. Yes, I keep Mr. Trump apprised of  
19 developments in that case, consistent with my  
20 ethical duties as a lawyer.

21 Q. Because he is named as an individual  
22 defendant in that case.

23 So it's a serious matter, isn't it?

24 A. I consider all litigation serious  
25 matters.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. Is it your understanding that the  
3 cause of action relates to a alleged violation  
4 of 18 U.S.C. § 1962(c) -- as in Charley?

5 MS. REED: I'm going to object to a  
6 line of questioning concerning this litigation  
7 in terms of relevancy.

8 BY MR. UNDERHILL:

9 Q. Do you understand -- do you remember  
10 the question I just asked you?

11 A. Yes, I am familiar with that.

12 Q. And are you aware that -- and would  
13 you agree that a brief description of the cause  
14 of action could be described as mail and wire  
15 fraud under the RICO statute?

16 A. In the Art Cohen case, yes.

17 Q. In the Art Cohen case.

18 A. Yes, those are allegations in the  
19 complaint -- emphasis on the word "allegations."

20 Q. Well, it hasn't gone to trial, of  
21 course. Nothing has been proved.

22 Isn't that correct?

23 A. The only thing that -- of significance  
24 that's happened in that case is that the class  
25 action in its companion case was decertified as

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2           to damages.

3                       So there is actually no longer a class  
4           action in the companion Makaeff case.

5                       And the Cohen case is just slightly  
6           behind schedule.

7           Q.     You are referring to the Makaeff case,  
8           right?

9                       That's an Oregon case, isn't it?

10          A.     No.

11          Q.     Where was that filed in?

12          A.     San Diego.

13          Q.     That's a San Diego case, too?

14                       Okay.

15                       But Art Cohen versus Donald J. Trump  
16           hasn't been dismissed as a case yet.

17          A.     No.

18                       MS. REED: I'm going to reiterate my  
19           objection to all line of questioning concerning  
20           this Cohen case as it relates to the claims in  
21           the case, apart from just use of the Trump  
22           University mark.

23                       So any questions and answers that are  
24           elicited about the substance of the wire fraud  
25           case are completely irrelevant to this



1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 opposition proceeding.

3 BY MR. UNDERHILL:

4 Q. As an attorney, do you know what the  
5 phrase "unclean hands" means?

6 A. I have a view of it.

7 Q. You remember studying that in law  
8 school, maybe?

9 A. Right -- like unclean hands would be  
10 filing and using a mark that's similar -- that  
11 trades off of the brand of someone else -- yeah.

12 Like your client? Yes. Unclean  
13 hands.

14 It goes both ways.

15 Q. I like you, Mr. Garten.

16 It's actually, is it not -- I mean  
17 let's take you back to law school -- so long  
18 ago, for me anyway.

19 Unclean hands has to do equity.

20 Do you remember that?

21 (Pause)

22 A. I do remember that.

23 MS. REED: Objection to relevancy.

24 (Pause)

25 Q. There was a legal case in New York,

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL  
2           wasn't there? -- regarding Trump University --

3           A.     There is one.

4           Q.     It's still going on.

5           A.     Pending.

6                     (Pause)

7           Q.     I think you were in the media talking  
8           about it, weren't you, at some point --

9           A.     I was.

10          Q.     Yeah.

11                     (Pause)

12          Q.     The Attorney General Schneiderman --  
13          that's his name? -- filed the case?

14          A.     I thin he -- Schneiderman -- Eric  
15          Schneiderman.

16                     Yes, he did.

17          Q.     So Trump University -- the State of  
18          New York, had maybe a little, tiny legal issue  
19          about using the word "university"?

20                     Is that correct?

21          A.     Yes. They did.

22          Q.     Because it was unlicensed by the  
23          state.

24          A.     It's a long, complicated answer --  
25          none of which is relevant to this.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. Well, thank you for making the  
3 objections for your counsel. But --

4 A. Look, everything you need to know  
5 about the Trump University cases -- whether it  
6 be in San Diego or in New York -- are publicly  
7 available in the court records, in the appeal  
8 briefs, and on, and on, and on.

9 Could probably talk about that case  
10 for a week.

11 It's not going to really get us  
12 anywhere for this.

13 MS. REED: I'm going to reiterate any  
14 objection to questioning concerning whether the  
15 Trump University cases -- whether it's in San  
16 Diego or New York.

17 I object that it's irrelevant.

18 MR. UNDERHILL: I'm going to be asking  
19 several questions of Mr. Garten regarding Trump  
20 University and related litigation.

21 Why don't we just give you a standing  
22 objection to that?

23 MS. REED: Standing objection.

24 Absolutely -- for all questions and any answers  
25 elicited concerning the San Diego litigation or

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL  
2           the New York litigation.

3                     They are irrelevant to this  
4           proceeding.

5                     MR. UNDERHILL: Do you feel you have  
6           made your objection as comprehensively as you  
7           would like?

8                     MS. REED: I have.

9                     But I might reiterate it again,  
10          depending on the questioning -- the line of  
11          questioning.

12                    MR. UNDERHILL: You have a standing  
13          objection. There is no need for you to remind  
14          me.

15                    MS. REED: Mr. Garten -- I'm sorry,  
16          Mr. Underhill -- please just proceed with your  
17          questions.

18                    MR. UNDERHILL: Thank you.

19                    (Pause)

20          BY MR. UNDERHILL:

21                    Q.     Jeffrey Goldman -- is he a private  
22          attorney?

23                            Or he is a member of the Trump  
24          organization?

25                    A.     He is a private attorney.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. Thank you.

3 And you are familiar with a person by  
4 the name of Supreme Court Justice Cynthia S.  
5 Kern?

6 A. Yes, I know -- I mean, not  
7 personally -- but I know Judge Kern, yes.

8 Q. This case that I'm referring to, I  
9 should identify for you: People v. Trump  
10 Initiative, New York State Supreme Court, New  
11 York County, No. 451463/2013.

12 Sir, on that case, isn't it true that  
13 the judge ruled that Donald Trump was personally  
14 liable for operating a for-profit investment  
15 school without the required license?

16 MS. REED: Objection, irrelevant.

17 A. I'd have to read the decision.

18 Q. You don't remember if Mr. Trump was  
19 found liable for something important like that?

20 A. It's the way you described it.

21 I'd have to actually read her  
22 decision.

23 Certainly you don't need my opinion on  
24 that. Just read the decision yourself.

25 Q. Have you ever given testimony at a

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 deposition before?

3 A. I have.

4 Q. Have you sat for standard discovery  
5 depositions?

6 A. Yes.

7 I've taken them as well.

8 Q. The lawsuit in New York that I was  
9 referring to -- that was filed by the Attorney  
10 General -- is it your opinion -- would you agree  
11 with this? -- the New York Attorney General Eric  
12 Schneiderman accused Mr. Trump of misleading  
13 more than 5,000 people who paid between \$1,495  
14 and \$35,000 to learn Mr. Trump's real estate  
15 investment techniques?

16 True?

17 MS. REED: Objection, irrelevant.

18 A. I would have to refer you to the  
19 complaint.

20 And whatever the complaint says I  
21 would agree is what he has alleged -- I'm  
22 sorry -- petition.

23 (Pause)

24 Q. Let's -- give me the two-sentence  
25 explanation to your mother about this case if

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL  
2           you are sitting down for Thanksgiving and she  
3           wanted to know what it was about.

4           A.     I'm really not going to answer this  
5           question.

6                     MR. UNDERHILL: Are you instructing  
7           him not to answer?

8                     THE WITNESS: No, it's -- why don't  
9           you just try rephrasing it?  
10                    Why don't you rephrase your question?

11                   MS. REED: Rephrase -- rephrase.

12       BY MR. UNDERHILL:

13           Q.     Mr. Garten, are you aware that, if you  
14           refuse to answer a question in a proceeding like  
15           this, that could be construed against your  
16           cause?

17           A.     Are you aware that asking irrelevant,  
18           harassing questions could get you sanctioned?

19           Q.     Are you aware that I'm the person who  
20           asks questions and you are the person who  
21           answers them?

22                   MS. REED: Okay. So I want to just  
23           stop here.

24                   Mr. Underhill, if you could just  
25           rephrase your question concerning Mr. Garten's

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL  
2           understanding of the allegations in the New York  
3           case.

4                       Simple as that. Just rephrase the  
5           question. And Mr. Garten -- I will instruct Mr.  
6           Garten to answer the question.

7                       (Pause)

8           BY MR. UNDERHILL:

9                       Q.     Are you threatening me with sanctions,  
10          Mr. Garten?

11                      MS. REED: Object --

12                      A.     I am asking if you are aware of it,  
13          just like you asked me if I was aware of it.

14                      MS. REED: -- okay, you are badgering  
15          the question.

16                      I'm asking just to rephrase the  
17          question, please, and he will answer the  
18          question.

19                      Q.     Are you threatening me with sanctions,  
20          Mr. Garten?

21                      A.     I am not threatening you.

22                      I'm asking you if you are aware.

23                      You asked me if you remember if me not  
24          answering your question would -- I don't  
25          remember how you said it.



1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2                   But if you ask your question again, I  
3           will do my best to answer it.

4                   MS. REED: Mr. Reporter, can you  
5           please read back Mr. Underhill's last question  
6           to Mr. Garten concerning the New York case?

7                   (Whereupon the following question was  
8           read back:

9                   "Q. Give me the two sentence  
10           explanation to your mother about this case if  
11           you are sitting down for Thanksgiving and she  
12           wanted to know what it was about?")

13                  MS. REED: Mr. Underhill, can you just  
14           rephrase that question?

15                  A. I can answer that question.

16                   I would describe it as the attorney  
17           has filed a baseless case against my client in  
18           an attempt to garner publicity. That's how I  
19           would describe it. That's in one sentence.

20                  Q. How would you describe the Art Cohen  
21           versus Donald J. Trump case to your mother --  
22           same manner?

23                  A. If I was sitting with my mother at  
24           Thanksgiving, I would say to her that a class  
25           action law firm whose former principal once went

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL  
2           to jail has filed a baseless case against my  
3           client, which we are winning, and I believe we  
4           will ultimately prevail on -- either on summary  
5           judgment or trial. That's how I would tell it  
6           to my mother.

7                       MS. REED: Can we take a short break?

8                       MR. UNDERHILL: Sure.

9                       (Recess from 12:23 p.m. to 12:31 p.m.)

10          BY MR. UNDERHILL:

11               Q.     Has Mr. Trump -- Donald Trump -- ever  
12               used his house mark to defraud or deceive the  
13               public?

14               A.     No.

15               Q.     But he's being accused of that in Art  
16               Cohen versus Donald Trump, right?

17               A.     I don't believe so, no.

18               Q.     Well, he's being accused of mail and  
19               wire fraud under the RICO statute in that case.

20               A.     I don't believe there is any  
21               allegation that he's using his house mark for  
22               that purpose.

23               Q.     Trump University -- "Trump" is a  
24               portion of that mark.

25               A.     Yes.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. When Mr. Trump created Trump  
3 University -- which you've testified that he  
4 owns most of -- he was using his famous name as  
5 part of that business, wasn't he?

6 A. Yes.

7 Q. And in this case of Cohen versus  
8 Trump, under the RICO statute, he's being  
9 accused of engagement in racketeering.

10 A. I believe that's correct.

11 Q. Do you know what "racketeering" means?

12 A. I would probably defer to someone who  
13 is more of an expert in that area of law.

14 Q. As an attorney, are you familiar with  
15 18 U.S.C. 1962 subsection C?

16 A. Familiar with it, to some degree.

17 Q. Have you ever worked as a U.S.  
18 Attorney?

19 Deputy U.S. Attorney?

20 A. No.

21 Q. Do you know how long my client has  
22 been using this mark in commerce?

23 A. I don't.

24 Q. Which means you don't know how long  
25 there has been concurrent use of the Trump marks

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2           in my client's mark.

3           A.     I don't.

4           Q.     And you have no actual evidence of  
5           confusion in the public in commerce between the  
6           two marks.

7                     Is that right?

8           A.     Me, personally?

9                     I can't think of anything.

10                    But it doesn't mean it doesn't exist,  
11           or it's not in the possession of my lawyers.

12           Q.     Do you understand that you are the  
13           sole witness in Mr. Trump's case-in-chief?

14           A.     Yes.

15           Q.     Do you understand that all evidence to  
16           benefit Mr. Trump on this case is going to flow  
17           through you?

18                    MS. REED:  Objection as to legal  
19           conclusions.

20           A.     I would have to consult my lawyer.

21           Q.     Okay.  That's fine.

22                    You understand this is the trial,  
23           right?

24           A.     Yes.

25           Q.     Okay.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 And you are the witness in the trial?

3 A. Yes.

4 Q. And you are witness for Donald J.

5 Trump?

6 A. Yes.

7 Q. And you understand that this is your

8 time as a plaintiff for your initial

9 case-in-chief.

10 Do you understand that?

11 A. I would have to consult with my

12 counsel as to that.

13 Q. Do you know what "rebuttal evidence"

14 is?

15 A. I do.

16 Q. Do you understand that the plaintiff

17 has the opportunity to have a rebuttal case as

18 well as the initial case-in-chief?

19 A. Yes.

20 Q. Are you aware, Mr. Garten, that under

21 the law, misrepresentations, fraud and/or deceit

22 used in relation to a trademark by its owner can

23 cause him to lose that mark?

24 MS. REED: Object again, as it calls

25 for a legal conclusion.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 A. I would have to sort of research that  
3 and consult with my counsel to give you a  
4 definitive answer.

5 Q. Okay.

6 Mr. Garten, an important element under  
7 trademark law is that the public should be  
8 protected from fraud and deceit.

9 Do you agree with that?

10 A. I would have to research that and see  
11 where that -- you know, I would have to research  
12 that and consult with my legal counsel.

13 Q. Here we have Mr. Trump -- very famous  
14 man, very successful businessman, no doubt about  
15 it -- extolling people to pay for attendance at  
16 a so-called university where they didn't get  
17 what they paid for.

18 Assuming that was true -- and I know  
19 that you don't agree with that -- assuming that  
20 was true, do you think that would be a wrong --  
21 something?

22 A. I don't understand your question.

23 Q. Okay.

24 Should Mr. Trump use his marks to  
25 commit fraud?

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 A. I don't think anyone should commit  
3 fraud -- period.

4 Q. We're not talking about everyone.

5 We are talking about Mr. Trump.

6 Would Mr. Trump -- should Mr. Trump  
7 use his marks to commit fraud?

8 A. I really don't know how to answer your  
9 question.

10 I don't think anyone should use their  
11 marks -- I can answer your question.

12 No one should commit fraud. That is  
13 bad.

14 So I would say: Whether it's Mr.  
15 Trump or anyone else, fraud is bad. People  
16 shouldn't do it.

17 (Pause)

18 MS. REED: I'm going object again.

19 I apologize for laughing.

20 But I'm laughing because this line of  
21 questioning about fraud is completely  
22 irrelevant.

23 MR. UNDERHILL: Let's go off the  
24 record --

25 MS. REED: -- and --

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 MR. UNDERHILL: -- for your speech.

3 MS. REED: -- no, I'm not giving a  
4 speech. Actually, it should be on the record.

5 It's completely irrelevant. And it's  
6 redundant, really.

7 So, I mean, hopefully we can move on  
8 from this line of questioning.

9 If you have something to ask Mr.  
10 Garten about concerning the use of the Trump  
11 mark for the goods and services that we've  
12 discussed, or licensing, or trademark  
13 registrations, or policing the brand -- as  
14 opposed to talking about the state claims with  
15 respect to wire fraud and RICO, because they are  
16 irrelevant.

17 MR. UNDERHILL: Are you done?

18 MS. REED: I'm done.

19 MR. UNDERHILL: I would like to object  
20 that counsel has repeatedly made speaking  
21 objections.

22 May I proceed now?

23 MS. REED: Yes, you may.

24 (Pause)

25



1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 BY MR. UNDERHILL:

3 Q. The Trump University mark is canceled,  
4 isn't it, Mr. Garten?

5 A. I don't know.

6 Q. Isn't it true there were two separate  
7 marks for Trump University?

8 A. I don't know.

9 (Pause)

10 Q. Are there any of the Trump marks that  
11 are identical in nature to the applicant's mark?

12 A. I don't know offhand.

13 (Pause)

14 THE WITNESS: Do you have an estimate  
15 on how much longer you are going to be?

16 MR. UNDERHILL: I'm probably done.  
17 I'm going through just to see if I have anything  
18 else.

19 THE WITNESS: If there is anything  
20 else that you want to ask me, or you feel  
21 appropriate to ask anyone else that I work with,  
22 I would just ask you to ask me those questions.

23 I can try to answer and provide you  
24 all the information to the best of my ability.

25 (Pause)

1           ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2           BY MR. UNDERHILL:

3           Q.     I assume it would be your preference  
4           that Mr. Donald Trump not be burdened to testify  
5           in this case.

6                     Is that right?

7           A.     I don't think there is anything that  
8           you may need to ask him that I can't answer. So  
9           I'm sort of offering myself to sit here and try  
10          to answer all your questions -- any question you  
11          may have -- whether it be for me or anyone else  
12          with whom I work, including my client, now so as  
13          not to burden him.

14          Q.     Your client being Mr. Trump?

15          A.     Yeah -- or any other member of his  
16          family.

17          Q.     Are you willing to waive  
18          attorney-client privilege?

19          A.     Of course not.

20                     (Pause)

21          Q.     I'd have to assume that Mr. Donald  
22          Trump, your client, is not willing to -- since  
23          he's the owner of the privilege, he's not  
24          willing to waive the privilege in exchange for  
25          him not being present pursuant to subpoena.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 A. He will not be waiving the privilege.

3 Q. Of course.

4 A. But I don't think that stops you from  
5 asking me questions that you think -- any  
6 question you may have, regardless to whom you  
7 think it's most appropriate to ask it to.

8 MS. REED: I understand that's your  
9 opinion.

10 THE WITNESS: It's 12:45. You know,  
11 if you have other questions I don't want you  
12 holding back questions. You should ask me them,  
13 so as not to burden others.

14 MS. REED: Can we just go off the  
15 record for a moment?

16 (Discussion off the record)

17 MR. UNDERHILL: Your client wants to  
18 put something on the record?

19 MS. REED: Yes.

20 I had offered to allow you to ask any  
21 question you want of Mr. Garten.

22 If you feel you have not gotten the  
23 response that you need, or he doesn't know  
24 something, and then we can discuss who might  
25 know that information.

1                   ALAN GARTEN, ESQ.

2                   So I'm offering Mr. Garten now as  
3                   someone who can answer -- or try to answer all  
4                   of your questions that you have.

5                   MR. UNDERHILL: I've exhausted the  
6                   questions I wish to ask Mr. Garten.

7                   I have questions that I wish to ask  
8                   the plaintiff directly.

9                   THE WITNESS: Do you want to at least  
10                  try to ask me the questions to see if I can  
11                  answer them?

12                  And then you can determine whether or  
13                  not you believe my answers are sufficient?

14                  Because otherwise it would be sort  
15                  of -- I think it would be unnecessarily --  
16                  certainly burdensome -- to hold questions back  
17                  to wait until you can ask someone else, when you  
18                  don't even know if I'm capable of answering as  
19                  his lawyer.

20                  MR. UNDERHILL: I'm not going to argue  
21                  a motion here in a deposition.

22                  THE WITNESS: I'm just asking a  
23                  question.

24                  MR. UNDERHILL: I'm not going to  
25                  answer questions.

1                   ALAN GARTEN, ESQ.

2                   I'm not going to the argue motion in a  
3           deposition.

4                   THE WITNESS: So you are refusing to  
5           ask me questions that you think are more  
6           appropriate for Mr. Trump.

7                   MR. UNDERHILL: I'm not going to  
8           answer questions, Mr. Garten. I'm not a witness  
9           here.

10                  THE WITNESS: Okay. But you are not  
11           disputing that. Okay.

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ALAN GARTEN, ESQ.

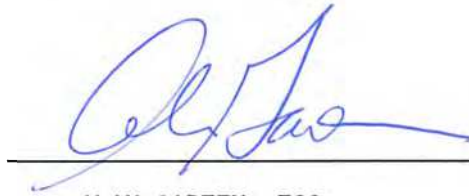
MS. REED: Okay. Thank you.

\* \* \*

E N D O F P R O C E E D I N G

Time noted 12:48 p.m.

\* \* \*



ALAN GARTEN, ESQ.

Subscribed and sworn to before me

this 16<sup>th</sup> day of December, 2015.



NOTARY PUBLIC

My Commission expires:

**MATTHEW R. MARON**  
Notary Public, State of New York  
No. 02MA6141948  
Qualified in Westchester County  
Certificate filed in New York County  
Commission Expires March 6, 2018

## ERRATA SHEET

STATE OF NEW YORK       )  
  :   ss.:  
COUNTY OF NEW YORK    )

Case Name:           Donald J. Trump v. Trump Your Competition, Inc.  
Opposition Number: 91217618  
Deponent:            Alan Garten  
Deposition Date:     November 12, 2015

I, ALAN GARTEN, declare under penalty of perjury under the laws of the United States of America, that I have read the foregoing deposition transcript and that, to the best of my knowledge, said deposition transcript is true and accurate, with the exception of the following corrections listed below:

| <u>PAGE</u> | <u>LINE(S)</u> | <u>CURRENTLY READS</u>   | <u>CHANGE TO</u>                             | <u>REASON</u>    |
|-------------|----------------|--|--|------------------|
| 6           | 11-12          | attorney-client privilege  | attorney-client privileged                   | Misspelling      |
| 8           | 3              | it's derivative marks  | its derivative marks                         | Misspelling      |
| 8           | 22-23          | and worked   | and I worked                                 | Mistranscription |
| 10          | 21             | and the we have  | and then we have                             | Misspelling      |
| 11          | 4              | filing options   | filing oppositions                           | Mistranscription |
| 11          | 5-6            | policing the registration<br>of the application<br>registration of domain<br>names | policing the registration<br>of domain names | Mistranscription |
| 11          | 10             | we worked with   | we work with                                 | Misspelling      |
| 12          | 22             | spoken   | spoke  | Misspelling      |
| 16          | 2-3            | hotel development, hotel<br>development  | hotel development                            | Mistranscription |
| 20          | 20-21          | develop condominium<br>building  | develop a condominium<br>building            | Mistranscription |
| 21          | 18             | So a lot of that goes into<br>that   | So a lot of what goes into<br>that           | Misspelling      |
| 24          | 10             | you now, 60  | you know, 65                                 | Mistranscription |
| 24          | 19             | it's traditionally a is U.S.<br>-based   | it's traditionally a U.S.-<br>based          | Mistranscription |
| 25          | 24             | So you mentioned about<br>the company  | So you mentioned the<br>company              | Mistranscription |
| 26          | 21             | there is countless   | there are countless                          | Mistranscription |
| 27          | 21             | Yeah   | You  | Mistranscription |
| 28          | 7              | also casino  | also a casino                                | Mistranscription |

| <b><u>PAGE</u></b> | <b><u>LINE(S)</u></b> | <b><u>CURRENTLY READS</u></b>                 | <b><u>CHANGE TO</u></b>                        | <b><u>REASON</u></b>            |
|--------------------|-----------------------|---|--|---------------------------------|
| 29                 | 13                    | develops produces                             | develops, produces                             | Mistranscription                |
| 33                 | 10-11                 | There is actually Trump golf shirts.          | There are actually Trump golf shirts.          | Mistranscription                |
| 33                 | 11-12                 | There is Trump sweatshirts.                   | There are Trump sweatshirts.                   | Mistranscription                |
| 33                 | 12                    | There is Trump hats.                          | There are Trump hats.                          | Mistranscription                |
| 33                 | 13-14                 | There is a lot of different apparel products. | There are a lot of different apparel products. | Mistranscription                |
| 35                 | 12                    | There is candles.                             | There are candles.                             | Mistranscription                |
| 38                 | 14                    | 4:00 o'clock                                  | 4 o'clock                                      | Misspelling                     |
| 38                 | 22                    | Do you recognize Exhibit                      | Do you recognize this Exhibit                  | Mistranscription                |
| 39                 | 3                     | there is more                                 | there are more                                 | Mistranscription                |
| 39                 | 22                    | establish and -- the brand                    | establish the brand                            | Mistranscription                |
| 39                 | 25                    | appears is consistent                         | it appears consistent                          | Clarification, Mistranscription |
| 43                 | 12                    | how to you succeed                            | how to succeed                                 | Mistranscription                |
| 45                 | 8                     | how transcribe                                | describe how                                   | Mistranscription                |
| 46                 | 24                    | books and how to                              | books on how to                                | Mistranscription                |
| 52                 | 20                    | gold. The gold color is everywhere.           | gold -- the gold color is everywhere.          | Mistranscription                |
| 54                 | 4                     | round   | around   | Misspelling                     |
| 59                 | 20                    | It is page that                               | It is the page that                            | Mistranscription                |
| 64                 | 9                     | Was notified                                  | I was notified                                 | Mistranscription                |
| 67                 | 25                    | a business advice                             | business advice                                | Mistranscription                |
| 81                 | 22-23                 | a legal conclusions                           | a legal conclusion                             | Misspelling                     |
| 86                 | 4                     | "Trump: marks come for your review            | "Trump:" marks come for your review            | Misspelling                     |
| 88                 | 11                    | serious                                       | seriously                                      | Mistranscription                |
| 95                 | 8                     | serious                                       | seriously                                      | Mistranscription                |
| 96                 | 4                     | 18 U.S.C. § 1962 C                            | 18 U.S.C. § 1962(c)                            | Misspelling                     |
| 99                 | 24-25                 | of none of which                              | none of which                                  | Mistranscription                |
| 103                | 20                    | , and   | And  | Misspelling                     |



Executed: New York, New York  
December 16, 2015

  
Alan Garten

Sworn to before me this  
18<sup>th</sup> day of December, 2015.



Notary Public

**MATTHEW R. MARON**  
Notary Public, State of New York  
Qualified in Westchester County  
Certificate Filed in New York County  
No. 02MA6141948  
Commission Expires March 6, 2018

C E R T I F I C A T E

STATE OF NEW YORK

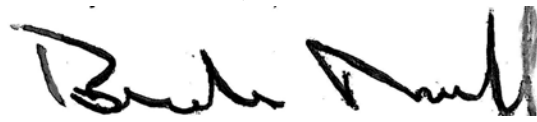
COUNTY OF NEW YORK

I, BRANDON RAINOFF, a Federal Certified  
Realtime Reporter and Notary Public within and for the  
State of New York, do hereby certify:

That ALAN GARTEN, ESQ., the witness  
whose deposition is hereinbefore set forth, was duly  
sworn by me and that such deposition is a true record  
of the testimony given by the witness at 10:08 a.m. on  
November 12, 2015, at the offices of Hughes Hubbard &  
Reed LLP, One Battery Park Plaza, New York, NY 10004 in  
the presence of Rod Underhill, Esquire, Attorney for  
Applicant Trump Your Competition, Inc.

I further certify that I am not related to any  
of the parties or counsel for any of the parties to this  
action by blood or marriage, and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my  
hand this 17th day of December, 2015.

A handwritten signature in black ink, appearing to read 'Brandon Rainoff', is written over a horizontal line.

BRANDON RAINOFF, FCRR, RMR, CRR

Notary for the State of New York #01RA6011914

Expiration date: 08/17/2018

| A   |   |  |   |
|---|---|--|---|
| <b>a.m (5)</b>  | 43:11 44:2 49:6, 11<br>50:14 55:18 61:15<br>61:19 67:25 69:4<br>69:5 90:2   | 82:1 83:1 84:1<br>85:1 86:1 87:1<br>88:1 89:1 90:1<br>91:1 92:1 93:1<br>94:1 95:1 96:1<br>97:1 98:1 99:1<br>100:1 101:1 102:1<br>103:1 104:1 105:1<br>106:1 107:1 108:1<br>109:1 110:1 111:1<br>112:1 113:1 114:1<br>115:1 116:1 117:1<br>118:1 119:1, 11<br>120:1, 24 121:7 | <b>anyway (2)</b><br>25:14 98:18<br><b>apart (1)</b><br>97:21<br><b>apologize (1)</b><br>112:19<br><b>apparel (6)</b><br>17:16 32:9, 12, 13<br>33:13, 21<br><b>appeal (3)</b><br>1:2 5:24 100:7<br><b>appear (3)</b><br>45:25 60:16 85:23<br><b>appearance (3)</b><br>41:10 59:24 69:13<br><b>appeared (3)</b><br>37:21 67:16 91:21<br><b>appears (39)</b><br>39:25 40:2, 5, 6<br>42:7, 10, 16 43:17<br>43:21, 23 45:8, 17<br>48:9, 21 49:4, 7, 10<br>49:17 50:6, 24<br>51:4 52:12, 13<br>56:18 57:18 58:6<br>59:6, 13, 16 60:14<br>60:15, 22 65:6, 22<br>65:25 67:8 69:16<br>69:16 83:17<br><b>applicant (4)</b><br>1:8 2:17 6:7<br>121:14<br><b>applicant's (2)</b><br>64:6 114:11<br><b>application (13)</b><br>64:23 65:4 75:10<br>75:14 79:5, 15, 20<br>79:22 80:12, 14, 15<br>80:16 86:8<br><b>applications (3)</b><br>11:5 86:5 87:13<br><b>appreciate (1)</b><br>71:2<br><b>apprentice (11)</b><br>16:16 29:13 30:3, 5<br>30:8, 9, 22, 25<br>31:14, 17 41:13<br><b>apprised (1)</b><br>95:18<br><b>approach (2)</b><br>10:10 52:5<br><b>appropriate (3)</b> |
| <b>ability (1)</b><br>114:24  | <b>advising (2)</b><br>9:2, 10  | <b>alerted (1)</b><br>86:7   |   |
| <b>Absolutely (2)</b><br>72:8 100:24  | <b>affiliate (1)</b><br>59:18   | <b>allegation (1)</b><br>107:21  |   |
| <b>abstract (1)</b><br>85:2   | <b>affiliated (2)</b><br>68:23 82:14  | <b>allegations (4)</b><br>95:6 96:18, 19<br>105:2  |   |
| <b>accessory (2)</b><br>35:13, 14   | <b>agency (1)</b><br>29:22  | <b>alleged (2)</b><br>96:3 103:21  |   |
| <b>accounting (1)</b><br>20:25  | <b>aggressive (5)</b><br>52:4 54:5, 6 70:4, 9   | <b>allow (2)</b><br>77:4 116:20  |   |
| <b>accused (4)</b><br>103:12 107:15, 18<br>108:9  | <b>ago (5)</b><br>7:12 16:18 38:3<br>61:2 98:18   | <b>America (2)</b><br>38:3, 8  |   |
| <b>acquisitions (1)</b><br>8:16   | <b>agree (11)</b><br>5:21 78:16 79:9<br>81:7 84:22 95:5<br>96:13 103:10, 21<br>111:9, 19  | <b>amount (3)</b><br>24:8, 8 33:20   |   |
| <b>action (12)</b><br>32:5 64:4 78:2<br>83:23 94:19 95:13<br>96:3, 14, 25 97:4<br>106:25 121:17 | <b>ahead (2)</b><br>36:12 54:17   | <b>and/or (3)</b><br>21:8 23:15 110:21   |   |
| <b>actions (6)</b><br>11:3 62:20 63:6, 7<br>63:8 89:17  | <b>Alan (128)</b><br>1:1, 12, 17 2:1 3:1<br>3:6 4:1 5:1, 8 6:1<br>6:4 7:1 8:1 9:1<br>10:1 11:1 12:1<br>13:1 14:1 15:1<br>16:1 17:1 18:1<br>19:1 20:1 21:1<br>22:1 23:1 24:1<br>25:1 26:1 27:1<br>28:1 29:1 30:1<br>31:1 32:1 33:1<br>34:1 35:1 36:1<br>37:1 38:1 39:1<br>40:1 41:1 42:1<br>43:1 44:1 45:1<br>46:1 47:1 48:1<br>49:1 50:1 51:1<br>52:1 53:1 54:1<br>55:1 56:1 57:1<br>58:1 59:1 60:1<br>61:1 62:1 63:1<br>64:1 65:1 66:1<br>67:1 68:1 69:1<br>70:1 71:1 72:1<br>73:1 74:1 75:1<br>76:1 77:1 78:1<br>79:1 80:1 81:1 | <b>Annex (1)</b><br>44:19  |   |
| <b>active (1)</b><br>70:4   |   | <b>answer (23)</b><br>72:12 84:25 85:10<br>88:5 99:24 104:4<br>104:7, 14 105:6, 17<br>106:3, 15 111:4<br>112:8, 11 114:23<br>115:8, 10 117:3, 3<br>117:11, 25 118:8  |   |
| <b>activities (2)</b><br>12:6 23:13   |   | <b>answered (1)</b><br>77:18   |   |
| <b>actual (4)</b><br>76:24 82:6 94:2<br>109:4   |   | <b>answering (2)</b><br>105:24 117:18  |   |
| <b>add (1)</b><br>6:3   |   | <b>answers (4)</b><br>97:23 100:24<br>104:21 117:13  |   |
| <b>addition (3)</b><br>11:9 30:14 62:4  |   | <b>Anthony (1)</b><br>74:19  |   |
| <b>address (2)</b><br>12:23, 24   |   | <b>anybody (1)</b><br>82:18  |   |
| <b>admissions (1)</b><br>93:10  |   |  |   |
| <b>adverse (1)</b><br>54:23   |   |  |   |
| <b>advertise (2)</b><br>62:12 68:2  |   |  |   |
| <b>advertisement (1)</b><br>67:18   |   |  |   |
| <b>advertising (7)</b><br>22:21 23:8, 17, 25<br>24:23 25:16 69:4                                |   |  |   |
| <b>advice (12)</b>  |   |  |   |

|   |   |  |  |
|---|---|--|--|
| <p>114:21 116:7<br/>118:6<br/><b>approval (4)</b><br/>22:7, 9, 12 25:17<br/><b>approving (2)</b><br/>25:10, 11<br/><b>approximately (4)</b><br/>19:11 23:14 85:25<br/>86:5<br/><b>area (1)</b><br/>108:13<br/><b>areas (1)</b><br/>15:22<br/><b>argue (2)</b><br/>117:20 118:2<br/><b>arm (1)</b><br/>58:23<br/><b>Art (19)</b><br/>18:13 37:10, 16<br/>39:8, 21 40:7<br/>41:19 42:9 44:22<br/>51:6 55:7, 19, 23<br/>95:10 96:16, 17<br/>97:15 106:20<br/>107:15<br/><b>artwork (1)</b><br/>80:6<br/><b>asked (6)</b><br/>76:5 77:18 92:22<br/>96:10 105:13, 23<br/><b>asking (14)</b><br/>80:10, 23 81:12<br/>84:13 86:6 87:19<br/>94:25 100:18<br/>104:17 105:12, 16<br/>105:22 116:5<br/>117:22<br/><b>asks (1)</b><br/>104:20<br/><b>aspect (2)</b><br/>20:23, 24<br/><b>aspects (3)</b><br/>11:7 20:13 21:7<br/><b>Ass (3)</b><br/>43:20 44:5, 25<br/><b>assets (1)</b><br/>88:13<br/><b>assistant (1)</b><br/>7:10<br/><b>assistants (1)</b><br/>10:14<br/><b>assists (1)</b></p> | <p>10:23<br/><b>associated (8)</b><br/>8:7 16:25 58:11<br/>61:6 66:7 68:10<br/>82:13 85:24<br/><b>assume (4)</b><br/>73:21 87:11 115:3<br/>115:21<br/><b>assumes (1)</b><br/>76:16<br/><b>assuming (4)</b><br/>73:25 76:14 111:18<br/>111:19<br/><b>assumptions (1)</b><br/>93:23<br/><b>Atlantic (3)</b><br/>28:6 57:9, 22<br/><b>attempt (1)</b><br/>106:18<br/><b>attempted (1)</b><br/>82:11<br/><b>attempting (1)</b><br/>83:24<br/><b>attendance (1)</b><br/>111:15<br/><b>attending (1)</b><br/>70:25<br/><b>attention (5)</b><br/>39:23 46:2 48:18<br/>75:10, 16<br/><b>attorney (28)</b><br/>2:16 10:22 71:5, 9<br/>71:10, 13, 17, 20<br/>72:6, 16 76:7, 8, 15<br/>78:8 93:2, 4 94:22<br/>98:4 99:12 101:22<br/>101:25 103:9, 11<br/>106:16 108:14, 18<br/>108:19 121:13<br/><b>attorney-client...</b><br/>6:11 72:11, 21<br/>89:19 115:18<br/><b>Attorneys (2)</b><br/>2:5, 17<br/><b>attraction (2)</b><br/>40:25 52:18<br/><b>author (8)</b><br/>37:4 39:12 42:19<br/>44:16 46:22 47:16<br/>48:15 49:25<br/><b>author's (1)</b><br/>48:22</p> | <p><b>authored (3)</b><br/>36:16 46:15 48:12<br/><b>authorization (1)</b><br/>72:7<br/><b>authorize (2)</b><br/>90:3, 3<br/><b>authorized (3)</b><br/>89:9, 21 90:9<br/><b>authorship (1)</b><br/>45:3<br/><b>automatically (1)</b><br/>75:9<br/><b>available (3)</b><br/>73:21 76:11 100:7<br/><b>Avenue (6)</b><br/>13:3 26:17, 19<br/>40:21 60:24 61:3<br/><b>aware (24)</b><br/>20:15 25:19 63:14<br/>64:5, 25 72:2, 3, 4<br/>74:18 75:5 85:21<br/>91:23, 24 92:8<br/>94:6, 7 96:12<br/>104:13, 17, 19<br/>105:12, 13, 22<br/>110:20</p> <hr/> <p style="text-align: center;"><b>B</b></p> <hr/> <p><b>B (1)</b><br/>4:2<br/><b>back (10)</b><br/>59:18 65:13 68:21<br/>69:12 91:3 98:17<br/>106:5, 8 116:12<br/>117:16<br/><b>background (1)</b><br/>81:13<br/><b>bad (2)</b><br/>112:13, 15<br/><b>badgering (1)</b><br/>105:14<br/><b>balls (1)</b><br/>34:2<br/><b>base (1)</b><br/>60:6<br/><b>based (5)</b><br/>29:23 53:2 82:9<br/>87:16 89:25<br/><b>baseless (2)</b><br/>106:17 107:2<br/><b>basic (3)</b><br/>18:5, 18 53:15</p> | <p><b>basically (2)</b><br/>62:8 68:4<br/><b>basis (1)</b><br/>19:25<br/><b>Bates (10)</b><br/>4:7, 10, 13, 16, 21<br/>13:9 38:18 56:7<br/>64:15 67:4<br/><b>Battery (3)</b><br/>1:19 2:6 121:12<br/><b>Beach (1)</b><br/>27:10<br/><b>bear (1)</b><br/>17:9<br/><b>bearing (8)</b><br/>4:9, 12, 15, 18 38:17<br/>56:6 64:15 67:3<br/><b>beat (2)</b><br/>36:23 42:3<br/><b>Bedminster (1)</b><br/>27:11<br/><b>beg (1)</b><br/>80:8<br/><b>beginning (3)</b><br/>52:2 53:13 72:6<br/><b>behalf (1)</b><br/>78:24<br/><b>belief (1)</b><br/>89:5<br/><b>believe (30)</b><br/>11:3 14:5, 5 27:23<br/>30:18 34:12 35:4<br/>35:10 36:16 37:23<br/>38:10 39:3 50:19<br/>52:25 53:5, 11<br/>60:11 68:8 71:22<br/>80:18 82:12 83:16<br/>83:23 88:12 89:7<br/>107:3, 17, 20<br/>108:10 117:13<br/><b>believing (1)</b><br/>68:9<br/><b>benefit (1)</b><br/>109:16<br/><b>Bernie (1)</b><br/>75:25<br/><b>best (14)</b><br/>31:17 37:22, 24<br/>38:11 49:6, 11<br/>50:13 54:21, 22, 22<br/>55:25 64:3 106:3<br/>114:24</p> |
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|   |  |   |   |
|---|--|---|---|
| <p>31:18, 20<br/> <b>beyond (1)</b><br/> 6:9<br/> <b>Bible (1)</b><br/> 55:12<br/> <b>big (14)</b><br/> 28:25 41:12, 17<br/> 42:22 43:20, 22<br/> 44:5, 24 45:10, 25<br/> 47:23 49:8 60:14<br/> 60:19<br/> <b>Biggest (2)</b><br/> 47:9 48:4<br/> <b>Bill (1)</b><br/> 44:18<br/> <b>Billionaire (3)</b><br/> 45:19 46:14, 19<br/> <b>billions (1)</b><br/> 19:23<br/> <b>bit (1)</b><br/> 32:15<br/> <b>black (1)</b><br/> 49:9<br/> <b>blasts (1)</b><br/> 23:9<br/> <b>blood (1)</b><br/> 121:17<br/> <b>Board (2)</b><br/> 1:2 5:24<br/> <b>bold (2)</b><br/> 51:12, 19<br/> <b>book (63)</b><br/> 37:7, 11, 17, 20 38:2<br/> 38:7, 9, 12 39:13<br/> 39:20 41:8, 11, 13<br/> 42:7, 9, 15, 17<br/> 43:10, 17, 18, 19<br/> 44:4, 11, 17 45:3, 8<br/> 45:10, 11, 18, 20, 21<br/> 46:10, 12, 19, 22<br/> 47:5, 7, 22 48:5, 10<br/> 48:11, 13, 19 49:2<br/> 49:4, 5, 16, 17, 18<br/> 50:13, 16 51:3, 5, 6<br/> 51:10 52:13 55:10<br/> 55:11, 20, 20, 24<br/> 56:2 66:16<br/> <b>books (49)</b><br/> 16:22, 23 18:10, 10<br/> 29:19 36:2, 7, 8, 9<br/> 36:14, 17, 19, 25<br/> 37:8, 9, 14, 14, 21</p> | <p>38:15 39:2 40:17<br/> 41:15, 20, 25 42:11<br/> 42:21 43:23, 25<br/> 44:13 46:4, 23, 24<br/> 50:5, 24 51:18, 22<br/> 53:19, 22, 23 54:18<br/> 55:5, 7, 13, 22<br/> 61:14 65:23 66:11<br/> 69:7 70:7<br/> <b>bottom (1)</b><br/> 38:5<br/> <b>Box (1)</b><br/> 2:18<br/> <b>brand (32)</b><br/> 7:24, 25 8:5 9:4<br/> 10:25 16:20 22:6<br/> 24:9 34:12, 17<br/> 35:4 39:22 41:6<br/> 47:20 48:24 51:8<br/> 52:6, 6, 16 53:14<br/> 58:11 60:3 62:17<br/> 62:19, 21, 23 63:4<br/> 88:10, 12 92:14<br/> 98:11 113:13<br/> <b>branded (1)</b><br/> 27:7<br/> <b>Brandon (3)</b><br/> 1:20 121:4, 23<br/> <b>breach (1)</b><br/> 72:21<br/> <b>break (3)</b><br/> 61:8, 13 107:7<br/> <b>breakdowns (1)</b><br/> 21:3<br/> <b>Briarcliff (1)</b><br/> 27:11<br/> <b>brief (1)</b><br/> 96:13<br/> <b>briefly (4)</b><br/> 7:15 12:21 30:23<br/> 77:15<br/> <b>briefs (1)</b><br/> 100:8<br/> <b>brokerage (3)</b><br/> 15:25 58:22, 23<br/> <b>bronzino (1)</b><br/> 53:2<br/> <b>brought (1)</b><br/> 32:4<br/> <b>building (13)</b><br/> 20:21 26:15 40:19<br/> 41:2 50:9 52:9, 17</p> | <p>52:19 53:4, 6<br/> 56:21 58:6, 14<br/> <b>buildings (5)</b><br/> 26:22 40:18 42:23<br/> 51:17 66:2<br/> <b>burden (2)</b><br/> 115:13 116:13<br/> <b>burdened (1)</b><br/> 115:4<br/> <b>burdensome (1)</b><br/> 117:16<br/> <b>Burnett (4)</b><br/> 30:7, 10, 13 31:8<br/> <b>business (68)</b><br/> 8:25 9:2, 3 12:10<br/> 12:24 14:10, 17<br/> 16:6 20:23 25:7<br/> 25:25 29:4 30:12<br/> 31:14 36:19, 20, 21<br/> 36:21 40:11 41:24<br/> 42:2 43:9, 11, 12<br/> 43:14, 15, 20 44:3<br/> 46:24, 25 47:23, 24<br/> 47:25 48:2 49:6<br/> 49:11 50:17, 18<br/> 51:17 52:5 53:16<br/> 53:24, 25 54:5<br/> 55:12, 15, 16, 17, 18<br/> 55:21 61:15, 18, 22<br/> 62:6, 7, 8 65:18<br/> 66:8, 12 67:25<br/> 68:5, 10 69:4, 5<br/> 70:5 82:13, 14<br/> 108:5<br/> <b>businesses (1)</b><br/> 16:6<br/> <b>businessman (1)</b><br/> 111:14<br/> <b>businessperson (1)</b><br/> 70:9<br/> <b>busy (1)</b><br/> 71:2<br/> <b>buy (5)</b><br/> 33:14, 16, 16, 18<br/> 55:5<br/> <b>buying (1)</b><br/> 55:13</p> | <p><b>California (2)</b><br/> 2:19 95:14<br/> <b>call (3)</b><br/> 16:10 18:5 23:2<br/> <b>called (30)</b><br/> 17:10 27:24 28:18<br/> 32:20, 22 33:6<br/> 34:13, 16 35:2<br/> 38:3, 8 41:11 42:9<br/> 42:17 45:10, 18<br/> 47:8 48:3, 11 49:5<br/> 49:18 50:13 51:6<br/> 52:21 53:2 61:3<br/> 92:3, 4, 18 95:10<br/> <b>calls (4)</b><br/> 72:10 81:22 83:2<br/> 110:24<br/> <b>canceled (1)</b><br/> 114:3<br/> <b>candidacy (1)</b><br/> 86:13<br/> <b>candles (2)</b><br/> 35:12, 14<br/> <b>capable (1)</b><br/> 117:18<br/> <b>card (2)</b><br/> 85:16, 17<br/> <b>career (2)</b><br/> 52:3 53:13<br/> <b>case (54)</b><br/> 47:18 48:5, 19 50:2<br/> 64:4 71:18, 24<br/> 72:2, 4, 5, 19 74:8<br/> 76:8, 15, 23 78:7<br/> 90:19 94:23, 25<br/> 95:3, 10, 16, 19, 22<br/> 96:16, 17, 24, 25<br/> 97:4, 5, 7, 9, 13, 16<br/> 97:20, 21, 25 98:25<br/> 99:13 100:9 102:8<br/> 102:12 103:25<br/> 105:3 106:6, 10, 17<br/> 106:21 107:2, 19<br/> 108:7 109:16<br/> 110:17 115:5<br/> <b>case-in-chief (3)</b><br/> 109:13 110:9, 18<br/> <b>cases (2)</b><br/> 100:5, 15<br/> <b>casino (5)</b><br/> 16:5 28:5, 7, 8 57:8<br/> <b>casinos (3)</b></p> |
|---|--|---|---|

|  |  |   |  |
|--|--|---|--|
| 16:5 28:4 57:22<br><b>category</b> (1)<br>34:19<br><b>caucus</b> (1)<br>64:3<br><b>cause</b> (4)<br>96:3, 13 104:16<br>110:23<br><b>caused</b> (1)<br>94:13<br><b>causes</b> (1)<br>78:2<br><b>cavalierly</b> (1)<br>88:14<br><b>cease-and-desis...</b><br>11:2 63:6<br><b>ceiling</b> (1)<br>52:23<br><b>Central</b> (1)<br>28:2<br><b>certain</b> (1)<br>72:17<br><b>certainly</b> (6)<br>70:3 73:13 85:18<br>95:8 102:23<br>117:16<br><b>Certified</b> (2)<br>1:21 121:4<br><b>certify</b> (2)<br>121:6, 15<br><b>Challenges</b> (2)<br>47:9 48:4<br><b>Champion</b> (1)<br>42:18<br><b>chance</b> (1)<br>87:5<br><b>change</b> (8)<br>66:14 120:8, 10, 12<br>120:14, 16, 18, 20<br><b>changes</b> (1)<br>120:5<br><b>Charles</b> (2)<br>49:19 51:8<br><b>Charley</b> (1)<br>96:4<br><b>Charlottesville...</b><br>28:17, 19<br><b>Chicago</b> (4)<br>20:21 21:22 27:23<br>60:9<br><b>children</b> (1)<br>9:22 | <b>circle</b> (1)<br>43:4<br><b>City</b> (3)<br>28:7 57:9, 22<br><b>claim</b> (1)<br>73:17<br><b>claimed</b> (1)<br>80:6<br><b>claims</b> (3)<br>79:15 97:20 113:14<br><b>class</b> (6)<br>15:7 94:19 95:13<br>96:24 97:3 106:24<br><b>clearly</b> (1)<br>92:13<br><b>client</b> (27)<br>9:2, 10, 11 65:18<br>69:6, 18 70:6<br>78:25 83:13, 14<br>86:2 88:2 89:15<br>89:18 91:7, 22, 25<br>92:19 94:2 98:12<br>106:17 107:3<br>108:21 115:12, 14<br>115:22 116:17<br><b>client's</b> (17)<br>68:25 69:11 81:21<br>82:11, 11, 12, 14<br>83:4, 11, 19, 24<br>88:10 89:6 92:12<br>92:14, 19 109:2<br><b>clients</b> (1)<br>70:2<br><b>clock</b> (1)<br>54:4<br><b>closely</b> (2)<br>20:24 25:3<br><b>club</b> (8)<br>27:8, 10, 11, 15<br>33:19, 23 59:12, 15<br><b>clubs</b> (6)<br>21:16, 16, 17, 17<br>27:17 33:21<br><b>co-creator</b> (1)<br>31:7<br><b>co-producing</b> (1)<br>30:12<br><b>co-writes</b> (1)<br>41:14<br><b>coast</b> (1)<br>28:24<br><b>coauthor</b> (1) | 36:12<br><b>Cohen</b> (9)<br>95:10 96:16, 17<br>97:5, 15, 20 106:20<br>107:16 108:7<br><b>coincides</b> (1)<br>14:6<br><b>Collection</b> (2)<br>32:22 60:5<br><b>collectively</b> (1)<br>10:15<br><b>color</b> (9)<br>47:19 52:20 53:7<br>65:17 68:17 73:17<br>79:16 80:5 91:8<br><b>coloring</b> (2)<br>66:6, 14<br><b>combination</b> (1)<br>62:8<br><b>come</b> (6)<br>22:23 52:11, 22<br>53:7 75:16 86:4<br><b>Comeback</b> (1)<br>42:10<br><b>comes</b> (3)<br>10:17 11:17 21:25<br><b>coming</b> (2)<br>21:4, 5<br><b>commencing</b> (1)<br>11:3<br><b>commerce</b> (4)<br>13:21 85:23 108:22<br>109:5<br><b>commercial</b> (3)<br>8:9 15:7 26:10<br><b>Commission</b> (1)<br>119:21<br><b>commit</b> (4)<br>111:25 112:2, 7, 12<br><b>common</b> (2)<br>36:18 39:6<br><b>communications</b> (3)<br>72:12, 13 89:19<br><b>companies</b> (3)<br>25:19 28:15 68:23<br><b>companion</b> (2)<br>96:25 97:4<br><b>company</b> (25)<br>7:16 8:16, 22 9:17<br>9:19, 25 10:16<br>12:9 14:8, 21<br>15:16, 20 20:11, 25 | 21:7, 8 24:13, 14<br>24:25 25:24 30:2<br>32:5 33:5 57:21<br>82:25<br><b>compete</b> (2)<br>31:13, 15<br><b>competition</b> (14)<br>1:7 47:2 64:7, 23<br>65:8 67:13, 20, 23<br>68:15 69:20 74:23<br>75:15 92:4 121:14<br><b>competitive</b> (2)<br>41:23 53:17<br><b>competitors</b> (4)<br>36:24 42:4 43:13<br>54:24<br><b>compilation</b> (1)<br>50:16<br><b>complaining</b> (1)<br>82:21<br><b>complaint</b> (5)<br>95:2, 5 96:19<br>103:19, 20<br><b>completely</b> (3)<br>97:25 112:21 113:5<br><b>compliant</b> (1)<br>25:7<br><b>complicated</b> (1)<br>99:24<br><b>comprehensively...</b><br>101:6<br><b>computer</b> (1)<br>89:11<br><b>concept</b> (1)<br>31:12<br><b>concerning</b> (9)<br>62:15 69:17 96:6<br>97:19 100:14, 25<br>104:25 106:6<br>113:10<br><b>concerns</b> (1)<br>95:6<br><b>conclusion</b> (2)<br>81:23 110:25<br><b>conclusions</b> (2)<br>87:19 109:19<br><b>concurrent</b> (1)<br>108:25<br><b>condominium</b> (5)<br>16:3 20:21 21:15<br>61:2, 5<br><b>conducts</b> (1) |
|--|--|---|--|

|                          |                          |                     |                           |
|--------------------------|--------------------------|---------------------|---------------------------|
| 62:5                     | <b>continue</b> (1)      | 26:21               | 108:1 109:1 110:1         |
| <b>conference</b> (1)    | 20:16                    | <b>country</b> (3)  | 111:1 112:1 113:1         |
| 88:19                    | <b>controls</b> (2)      | 27:6 35:7 62:5      | 114:1 115:1 116:1         |
| <b>confidential</b> (1)  | 28:16, 16                | <b>County</b> (3)   | <b>CROSS-EXAMINATI...</b> |
| 89:18                    | <b>conversation</b> (1)  | 102:11 120:4 121:3  | 70:21                     |
| <b>confusion</b> (3)     | 89:24                    | <b>couple</b> (4)   | <b>cross-examine</b> (2)  |
| 82:4, 6 109:5            | <b>converted</b> (1)     | 5:12 38:15 59:20    | 6:7 70:17                 |
| <b>conglomerate</b> (1)  | 60:25                    | 63:16               | <b>CRR</b> (1)            |
| 12:10                    | <b>convey</b> (2)        | <b>course</b> (10)  | 121:23                    |
| <b>conjunction</b> (2)   | 41:21 52:3               | 16:4 19:7 64:4      | <b>current</b> (2)        |
| 27:3 89:15               | <b>conveying</b> (1)     | 71:5 78:16, 23      | 7:3 38:2                  |
| <b>connection</b> (6)    | 52:16                    | 92:17 96:21         | <b>currently</b> (6)      |
| 16:21 19:13 29:19        | <b>conveys</b> (2)       | 115:19 116:3        | 6:19 15:8 31:3, 22        |
| 57:25 62:15, 21          | 43:9 70:7                | <b>courses</b> (4)  | 31:23 92:9                |
| <b>Consciousness</b> (1) | <b>copies</b> (2)        | 27:7, 14 66:11 69:7 | <b>Cynthia</b> (1)        |
| 84:22                    | 37:25 56:2               | <b>court</b> (4)    | 102:4                     |
| <b>consider</b> (2)      | <b>copy</b> (2)          | 32:6 100:7 102:4    |                           |
| 71:8 95:24               | 68:21 90:14              | 102:10              | <b>D</b>                  |
| <b>consistent</b> (25)   | <b>corner</b> (3)        | <b>cover</b> (16)   | <b>D</b> (7)              |
| 39:25 41:18 42:11        | 26:16 57:10 59:17        | 37:6, 6 38:5 39:17  | 3:2 4:2 5:3 77:13         |
| 43:22 45:22 49:13        | <b>corporation</b> (2)   | 41:9 42:8, 16       | 78:6 119:4, 4             |
| 49:21 50:3 51:2          | 92:20, 21                | 43:18 45:9 46:12    | <b>damages</b> (1)        |
| 51:10, 13 57:11          | <b>correct</b> (5)       | 47:7 48:10 49:4, 8  | 97:2                      |
| 60:18 65:10, 20, 24      | 57:2 71:7 96:22          | 49:17 51:5          | <b>darts</b> (1)          |
| 66:5, 6, 14, 17          | 99:20 108:10             | <b>covers</b> (4)   | 88:15                     |
| 68:16, 17 70:4, 5        | <b>correctly</b> (1)     | 39:2, 14 40:2 66:16 | <b>date</b> (6)           |
| 95:19                    | 81:6                     | <b>create</b> (1)   | 14:2, 3, 7 37:20          |
| <b>consists</b> (1)      | <b>correspond</b> (1)    | 20:19               | 55:23 121:25              |
| 67:12                    | 24:10                    | <b>created</b> (2)  | <b>dated</b> (2)          |
| <b>construction</b> (3)  | <b>corresponding</b> (1) | 14:4 108:2          | 4:6 13:9                  |
| 15:5, 20, 25             | 24:7                     | <b>creator</b> (1)  | <b>dates</b> (1)          |
| <b>construed</b> (1)     | <b>corresponds</b> (1)   | 30:7                | 67:15                     |
| 104:15                   | 14:3                     | <b>credit</b> (1)   | <b>daughter</b> (1)       |
| <b>consult</b> (5)       | <b>couch</b> (1)         | 30:11               | 34:14                     |
| 92:24 109:20             | 53:12                    | <b>crest</b> (2)    | <b>day</b> (5)            |
| 110:11 111:3, 12         | <b>counsel</b> (40)      | 59:13 61:6          | 40:25 55:23 91:19         |
| <b>consultation</b> (1)  | 4:3 6:14 7:6, 11, 14     | <b>Gripped</b> (2)  | 119:15 121:20             |
| 89:25                    | 7:19 11:10 12:22         | 38:3, 8             | <b>day-to-day</b> (3)     |
| <b>consulted</b> (1)     | 20:11 62:25 63:17        | <b>Gross</b> (48)   | 11:14 12:6, 17            |
| 88:22                    | 63:21 64:2, 9, 10        | 3:12 70:1 71:1      | <b>DC</b> (1)             |
| <b>consulting</b> (3)    | 64:10 65:3 71:4          | 72:1 73:1 74:1      | 27:11                     |
| 9:5 68:2, 5              | 72:14, 20 74:4, 10       | 75:1 76:1 77:1      | <b>dead</b> (1)           |
| <b>consumers</b> (2)     | 74:16 75:22 76:22        | 78:1 79:1 80:1      | 74:23                     |
| 55:4 68:9                | 78:21 81:25 87:24        | 81:1 82:1 83:1      | <b>deal</b> (20)          |
| <b>contain</b> (1)       | 88:23 89:25 90:2         | 84:1 85:1 86:1      | 18:13 20:17 22:3, 4       |
| 51:19                    | 92:25 94:7, 24           | 87:1 88:1 89:1      | 23:20 32:17 34:11         |
| <b>contained</b> (1)     | 100:3 110:12             | 90:1 91:1 92:1      | 34:17 37:11, 16           |
| 56:17                    | 111:3, 12 113:20         | 93:1 94:1 95:1      | 39:8, 21 40:7             |
| <b>contemplate</b> (1)   | 121:16                   | 96:1 97:1 98:1      | 41:19 44:23 54:11         |
| 75:6                     | <b>counselor</b> (1)     | 99:1 100:1 101:1    | 54:22 55:8, 19, 23        |
| <b>contestants</b> (1)   | 81:19                    | 102:1 103:1 104:1   | <b>deals</b> (11)         |
| 31:12                    | <b>countless</b> (1)     | 105:1 106:1 107:1   | 9:4, 7, 8, 8 11:25        |

|  |   |   |   |
|--|---|---|---|
| <p>21:25 22:6 24:8<br/>32:16 41:12 43:15<br/><b>deceit</b> (2)<br/>110:21 111:8<br/><b>deceitful</b> (1)<br/>94:16<br/><b>deceive</b> (1)<br/>107:12<br/><b>December</b> (4)<br/>7:2 13:25 75:17<br/>121:20<br/><b>decertified</b> (1)<br/>96:25<br/><b>decide</b> (1)<br/>64:3<br/><b>decimate</b> (1)<br/>69:23<br/><b>decision</b> (7)<br/>74:8 88:23 89:14<br/>89:24 102:17, 22<br/>102:24<br/><b>dedicated</b> (2)<br/>10:19 56:21<br/><b>deemed</b> (1)<br/>5:15<br/><b>defendant</b> (1)<br/>95:22<br/><b>defer</b> (1)<br/>108:12<br/><b>definitely</b> (1)<br/>39:4<br/><b>definitive</b> (1)<br/>111:4<br/><b>defraud</b> (1)<br/>107:12<br/><b>degree</b> (1)<br/>108:16<br/><b>delegated</b> (1)<br/>12:15<br/><b>Delmonico</b> (1)<br/>60:24<br/><b>denominator</b> (1)<br/>36:18<br/><b>department</b> (1)<br/>20:25<br/><b>depending</b> (3)<br/>22:24, 25 101:10<br/><b>deposition</b> (7)<br/>1:17 93:16 103:2<br/>117:21 118:3<br/>121:8, 9<br/><b>depositions</b> (1)</p> | <p>103:5<br/><b>Deputy</b> (1)<br/>108:19<br/><b>derivations</b> (3)<br/>18:8, 20 60:12<br/><b>derivative</b> (9)<br/>8:3 16:25 26:10<br/>27:5 31:21 32:11<br/>34:6, 23 35:4<br/><b>derivatives</b> (2)<br/>19:2, 5<br/><b>describe</b> (28)<br/>8:13 39:16 40:4<br/>41:9 42:7, 15 45:7<br/>45:8, 16 46:11<br/>47:6 48:9 49:3, 15<br/>49:16 51:4 55:4<br/>56:13, 16 57:6, 16<br/>57:24 59:24 60:21<br/>65:5 106:16, 19, 20<br/><b>described</b> (9)<br/>44:6 45:13 49:21<br/>53:18 69:13, 21<br/>80:15 96:14<br/>102:20<br/><b>description</b> (5)<br/>14:24 15:2 83:4<br/>89:11 96:13<br/><b>destroy</b> (1)<br/>69:24<br/><b>detail</b> (1)<br/>53:21<br/><b>detailed</b> (1)<br/>22:10<br/><b>determine</b> (1)<br/>117:12<br/><b>determines</b> (1)<br/>83:22<br/><b>develop</b> (2)<br/>20:19, 20<br/><b>developing</b> (2)<br/>22:4, 17<br/><b>development</b> (9)<br/>15:5, 20, 24 16:3, 3<br/>16:4 26:7 30:17<br/>31:9<br/><b>developments</b> (1)<br/>95:19<br/><b>develops</b> (1)<br/>29:13<br/><b>Diamond</b> (1)<br/>75:25</p> | <p><b>Diego</b> (6)<br/>94:19 97:12, 13<br/>100:6, 16, 25<br/><b>differ</b> (1)<br/>84:16<br/><b>different</b> (14)<br/>8:17 9:6 21:14<br/>22:24, 25 26:13<br/>28:21 33:13 34:25<br/>36:17 44:22 50:17<br/>58:16 92:2<br/><b>differing</b> (1)<br/>91:14<br/><b>differs</b> (1)<br/>86:10<br/><b>difficult</b> (1)<br/>19:20<br/><b>dilution</b> (4)<br/>81:10, 15, 18, 20<br/><b>direct</b> (68)<br/>3:11 6:1, 9, 17 7:1<br/>8:1 9:1 10:1 11:1<br/>12:1 13:1 14:1<br/>15:1 16:1 17:1<br/>18:1 19:1 20:1<br/>21:1 22:1 23:1<br/>24:1 25:1 26:1<br/>27:1 28:1 29:1<br/>30:1 31:1 32:1<br/>33:1 34:1 35:1<br/>36:1 37:1 38:1<br/>39:1 40:1 41:1<br/>42:1 43:1 44:1<br/>45:1 46:1 47:1<br/>48:1 49:1 50:1<br/>51:1 52:1 53:1<br/>54:1 55:1 56:1<br/>57:1 58:1 59:1<br/>60:1 61:1 62:1<br/>63:1 64:1 65:1<br/>66:1 67:1 68:1<br/>69:1 73:2<br/><b>direction</b> (1)<br/>61:24<br/><b>directly</b> (1)<br/>117:8<br/><b>disagree</b> (1)<br/>92:15<br/><b>disclose</b> (2)<br/>72:13 73:24<br/><b>disclosing</b> (1)<br/>89:18</p> | <p><b>disclosure</b> (1)<br/>72:11<br/><b>discovery</b> (7)<br/>78:18, 23 92:17<br/>93:3, 5, 7 103:4<br/><b>discuss</b> (1)<br/>116:24<br/><b>discussed</b> (2)<br/>88:21 113:12<br/><b>Discussion</b> (2)<br/>94:10 116:16<br/><b>dismissed</b> (1)<br/>97:16<br/><b>displayed</b> (1)<br/>37:5<br/><b>disputing</b> (1)<br/>118:11<br/><b>distributed</b> (2)<br/>28:24 33:3<br/><b>District</b> (1)<br/>95:14<br/><b>divide</b> (1)<br/>52:24<br/><b>divided</b> (1)<br/>62:23<br/><b>document</b> (15)<br/>4:5, 9, 12, 15, 18<br/>13:7, 13 38:17<br/>56:6 64:14, 19<br/>67:2 80:24 81:3<br/>87:21<br/><b>documents</b> (5)<br/>12:21 22:11 90:12<br/>93:14, 14<br/><b>doing</b> (1)<br/>83:17<br/><b>dollars</b> (5)<br/>19:24 20:2 23:23<br/>24:4, 23<br/><b>domain</b> (3)<br/>11:6 63:7, 20<br/><b>Dominate</b> (1)<br/>69:23<br/><b>Donald</b> (31)<br/>1:4 9:15, 22 11:23<br/>32:21, 22 35:20, 21<br/>42:20 46:16 47:10<br/>48:12, 19, 22 49:19<br/>51:7 68:11 71:23<br/>78:17 83:6 84:2<br/>85:24 95:11 97:15<br/>102:13 106:21</p> |
|--|---|---|---|



|  |  |  |  |
|--|--|--|--|
| 107:11, 16 110:4<br>115:4, 21<br><b>doors</b> (1)<br>52:11<br><b>doubt</b> (1)<br>111:14<br><b>drawing</b> (3)<br>79:23, 25 80:5<br><b>duly</b> (2)<br>5:9 121:8<br><b>duties</b> (1)<br>95:20 | <b>elicited</b> (2)<br>97:24 100:25<br><b>embodied</b> (1)<br>91:17<br><b>emphasis</b> (1)<br>96:19<br><b>Empire</b> (1)<br>34:13<br><b>employed</b> (2)<br>6:20 9:12<br><b>employment</b> (1)<br>7:21<br><b>encountered</b> (1)<br>82:10<br><b>endeavors</b> (1)<br>65:19<br><b>enforce</b> (3)<br>11:22 23:12 63:3<br><b>enforcement</b> (5)<br>8:5 10:25 62:22<br>82:9 88:10<br><b>engaged</b> (1)<br>78:17<br><b>engagement</b> (1)<br>108:9<br><b>engaging</b> (1)<br>63:10<br><b>English</b> (1)<br>85:13<br><b>entail</b> (1)<br>22:20<br><b>entails</b> (1)<br>8:14<br><b>enter</b> (3)<br>9:3 56:4 64:12<br><b>entered</b> (1)<br>5:19<br><b>entering</b> (1)<br>9:6<br><b>enterprise</b> (2)<br>15:18 68:10<br><b>entertainment</b> (6)<br>16:13 29:11 57:15<br>57:19, 20 58:2<br><b>entertainment-r...</b><br>29:6<br><b>entitled</b> (2)<br>4:5 13:8<br><b>entity</b> (1)<br>23:21<br><b>entrance</b> (1)<br>52:10 | <b>equipment</b> (1)<br>34:2<br><b>equity</b> (1)<br>98:19<br><b>Eric</b> (6)<br>9:23 11:18 12:2, 13<br>99:14 103:11<br><b>escapes</b> (1)<br>34:15<br><b>Esq</b> (130)<br>1:1, 12, 17 2:1, 9, 12<br>2:21 3:1, 6 4:1<br>5:1, 8 6:1 7:1 8:1<br>9:1 10:1 11:1<br>12:1 13:1 14:1<br>15:1 16:1 17:1<br>18:1 19:1 20:1<br>21:1 22:1 23:1<br>24:1 25:1 26:1<br>27:1 28:1 29:1<br>30:1 31:1 32:1<br>33:1 34:1 35:1<br>36:1 37:1 38:1<br>39:1 40:1 41:1<br>42:1 43:1 44:1<br>45:1 46:1 47:1<br>48:1 49:1 50:1<br>51:1 52:1 53:1<br>54:1 55:1 56:1<br>57:1 58:1 59:1<br>60:1 61:1 62:1<br>63:1 64:1 65:1<br>66:1 67:1 68:1<br>69:1 70:1 71:1<br>72:1 73:1 74:1<br>75:1 76:1 77:1<br>78:1 79:1 80:1<br>81:1 82:1 83:1<br>84:1 85:1 86:1<br>87:1 88:1 89:1<br>90:1 91:1 92:1<br>93:1 94:1 95:1<br>96:1 97:1 98:1<br>99:1 100:1 101:1<br>102:1 103:1 104:1<br>105:1 106:1 107:1<br>108:1 109:1 110:1<br>111:1 112:1 113:1<br>114:1 115:1 116:1<br>117:1 118:1 119:1<br>119:11 120:1, 24<br>121:7 | <b>Esquire</b> (1)<br>121:13<br><b>essentially</b> (2)<br>15:17 81:5<br><b>establish</b> (2)<br>39:22 53:14<br><b>establishment</b> (1)<br>86:24<br><b>estate</b> (23)<br>9:7 14:9 15:4, 19<br>15:22, 23, 24, 24, 25<br>15:25 16:2 21:15<br>22:3 26:6, 11<br>36:22 45:19 46:5<br>46:15 50:14 51:15<br>58:22 103:14<br><b>estates</b> (1)<br>19:7<br><b>estimate</b> (1)<br>114:14<br><b>ethical</b> (1)<br>95:20<br><b>event</b> (1)<br>29:4<br><b>evidence</b> (13)<br>4:3 5:16 56:5<br>64:13 70:13 76:17<br>81:19 82:3 87:22<br>90:14 109:4, 15<br>110:13<br><b>exact</b> (4)<br>19:21 45:13 67:15<br>69:25<br><b>exactly</b> (3)<br>22:22 73:12 91:25<br><b>examination</b> (4)<br>3:10 6:10, 17 73:3<br><b>examined</b> (1)<br>5:9<br><b>example</b> (9)<br>18:9, 21 21:22 22:3<br>28:12 34:5, 21<br>45:24 46:7<br><b>examples</b> (8)<br>17:9 18:21, 22 26:8<br>29:10 32:10 66:15<br>85:20<br><b>excess</b> (2)<br>20:5 37:24<br><b>exchange</b> (1)<br>115:24<br><b>excuse</b> (2) |
|--|--|--|--|

|                        |                        |                      |                       |
|------------------------|------------------------|----------------------|-----------------------|
| 17:23 38:5             | <b>explain (4)</b>     | <b>fashion (1)</b>   | 4:19 5:13 8:21        |
| <b>executive (4)</b>   | 7:15 62:18 69:17       | 91:8                 | 13:20 14:4, 14, 15    |
| 7:5, 13 10:2 11:19     | 89:8                   | <b>FCRR (1)</b>      | 14:19 24:5 37:11      |
| <b>executives (2)</b>  | <b>explained (2)</b>   | 121:23               | 37:17 39:15 55:10     |
| 9:17 11:13             | 18:24 61:14            | <b>feature (3)</b>   | 55:20 56:25 59:22     |
| <b>exemplify (1)</b>   | <b>explanation (2)</b> | 73:18 79:16 80:6     | 65:13 67:3 77:19      |
| 31:14                  | 103:25 106:10          | <b>featured (1)</b>  | 77:20, 23 87:8        |
| <b>exhausted (1)</b>   | <b>extend (1)</b>      | 65:9                 | 91:10                 |
| 117:5                  | 52:23                  | <b>features (1)</b>  | <b>floor (1)</b>      |
| <b>exhibit (47)</b>    | <b>extensively (1)</b> | 38:4                 | 53:8                  |
| 4:5, 9, 12, 15, 18     | 39:7                   | <b>February (1)</b>  | <b>flooring (1)</b>   |
| 13:5, 7, 13 14:22      | <b>extent (1)</b>      | 75:15                | 52:25                 |
| 38:16, 17, 21, 22      | 72:10                  | <b>Federal (2)</b>   | <b>flow (1)</b>       |
| 41:7 42:5 45:5         | <b>extolling (1)</b>   | 1:20 121:4           | 109:16                |
| 56:5, 6, 15, 17 57:2   | 111:15                 | <b>feel (4)</b>      | <b>focused (1)</b>    |
| 57:3 59:8 60:17        | <b>extremely (3)</b>   | 38:22 101:5 114:20   | 36:20                 |
| 60:20 64:13, 13, 14    | 25:3 88:10 94:21       | 116:22               | <b>following (3)</b>  |
| 64:20 65:6 66:9        |                        | <b>field (1)</b>     | 106:7 120:5, 6        |
| 66:15, 22, 22 67:2     | <b>F</b>               | 83:8                 | <b>follows (1)</b>    |
| 67:7 68:13, 14         | <b>F (4)</b>           | <b>Fifth (3)</b>     | 5:10                  |
| 69:12 79:3, 3, 7, 9    | 3:2 4:2 119:4          | 13:3 26:17 40:21     | <b>font (7)</b>       |
| 79:11 86:18 91:4       | 121:1                  | <b>figure (1)</b>    | 40:16, 22 50:25       |
| 91:18                  | <b>face (2)</b>        | 40:12                | 56:23 65:11 66:4      |
| <b>exhibits (5)</b>    | 58:9, 11               | <b>file (3)</b>      | 66:5                  |
| 3:15 5:14 70:13, 15    | <b>fact (1)</b>        | 63:12 64:11 78:20    | <b>for-profit (1)</b> |
| 90:11                  | 25:3                   | <b>filed (21)</b>    | 102:14                |
| <b>exist (1)</b>       | <b>factors (1)</b>     | 63:9 71:12 72:5      | <b>formal (1)</b>     |
| 109:10                 | 22:25                  | 74:8 75:14 76:24     | 5:19                  |
| <b>exists (1)</b>      | <b>factory (2)</b>     | 77:5, 6, 13, 17 81:3 | <b>formative (3)</b>  |
| 30:5                   | 88:25 89:2             | 86:2, 4, 21 87:12    | 28:13 31:21 35:18     |
| <b>expand (1)</b>      | <b>facts (1)</b>       | 95:13 97:11 99:13    | <b>formed (2)</b>     |
| 24:16                  | 76:16                  | 103:9 106:17         | 14:7, 20              |
| <b>expanded (1)</b>    | <b>factual (1)</b>     | 107:2                | <b>former (2)</b>     |
| 15:21                  | 81:13                  | <b>filing (9)</b>    | 60:24 106:25          |
| <b>expect (1)</b>      | <b>fairly (1)</b>      | 11:4 63:6, 9, 24     | <b>forms (1)</b>      |
| 52:7                   | 95:6                   | 65:4 72:7 86:7       | 22:24                 |
| <b>expenses (2)</b>    | <b>faith (1)</b>       | 90:4 98:10           | <b>forth (2)</b>      |
| 25:15, 18              | 89:5                   | <b>filings (2)</b>   | 80:19 121:8           |
| <b>experience (1)</b>  | <b>fall (1)</b>        | 63:18, 19            | <b>forward (1)</b>    |
| 82:10                  | 35:13                  | <b>financial (1)</b> | 50:20                 |
| <b>experiences (1)</b> | <b>familiar (16)</b>   | 21:7                 | <b>found (2)</b>      |
| 47:25                  | 20:12, 13 21:6         | <b>fine (2)</b>      | 73:24 102:19          |
| <b>expert (1)</b>      | 25:22 36:14 85:3       | 90:13 109:21         | <b>foundation (2)</b> |
| 108:13                 | 85:15 90:7 93:6        | <b>finish (1)</b>    | 70:15 86:23           |
| <b>Experts (1)</b>     | 94:19 95:15, 17        | 54:15                | <b>fragrance (4)</b>  |
| 50:15                  | 96:11 102:3            | <b>fired (1)</b>     | 34:9, 10, 13, 15      |
| <b>Expiration (1)</b>  | 108:14, 16             | 76:13                | <b>fragrances (3)</b> |
| 121:25                 | <b>family (6)</b>      | <b>firm (3)</b>      | 17:15 34:4, 7         |
| <b>expired (1)</b>     | 9:16, 19, 21 11:23     | 76:19 78:11 106:25   | <b>fraud (12)</b>     |
| 74:23                  | 28:16 115:16           | <b>firms (2)</b>     | 94:13 96:15 97:24     |
| <b>expires (1)</b>     | <b>famous (2)</b>      | 11:11 62:25          | 107:19 111:8, 25      |
| 119:21                 | 108:4 111:13           | <b>first (23)</b>    | 112:3, 7, 12, 15, 21  |

|   |   |   |   |
|---|---|---|---|
| <p>113:15<br/> <b>free (3)</b><br/> 6:7,8 38:23<br/> <b>frequently (4)</b><br/> 60:13,15 68:19,22<br/> <b>front (10)</b><br/> 12:4 17:8 29:11<br/> 40:20 41:3,3 50:7<br/> 52:11 79:11,12<br/> <b>Fross (1)</b><br/> 76:18<br/> <b>full (2)</b><br/> 69:15,16<br/> <b>full-blown (1)</b><br/> 63:10<br/> <b>furnishing (1)</b><br/> 35:5<br/> <b>furnishings (3)</b><br/> 17:18 34:20,23<br/> <b>further (2)</b><br/> 70:10 121:15</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/> <p><b>G (2)</b><br/> 5:3 119:4<br/> <b>gain (1)</b><br/> 39:23<br/> <b>game (1)</b><br/> 85:16<br/> <b>gamut (3)</b><br/> 9:9 55:6 63:5<br/> <b>garner (1)</b><br/> 106:18<br/> <b>Garten (156)</b><br/> 1:1,12,17 2:1 3:1<br/> 3:6 4:1 5:1,8 6:1<br/> 6:4,7,19 7:1 8:1<br/> 9:1 10:1 11:1<br/> 12:1 13:1,12 14:1<br/> 15:1 16:1 17:1<br/> 18:1 19:1 20:1<br/> 21:1 22:1 23:1<br/> 24:1 25:1 26:1<br/> 27:1 28:1 29:1<br/> 30:1 31:1 32:1<br/> 33:1 34:1 35:1<br/> 36:1 37:1 38:1<br/> 39:1 40:1 41:1<br/> 42:1 43:1 44:1<br/> 45:1 46:1 47:1<br/> 48:1 49:1 50:1<br/> 51:1 52:1 53:1</p> | <p>54:1 55:1 56:1,10<br/> 57:1 58:1 59:1<br/> 60:1 61:1 62:1<br/> 63:1 64:1,18 65:1<br/> 66:1 67:1 68:1<br/> 69:1 70:1,23 71:1<br/> 72:1 73:1 74:1<br/> 75:1 76:1 77:1<br/> 78:1 79:1 80:1<br/> 81:1 82:1 83:1<br/> 84:1 85:1 86:1,25<br/> 87:1 88:1 89:1,8<br/> 90:1,12 91:1 92:1<br/> 92:16 93:1 94:1<br/> 94:12 95:1 96:1<br/> 97:1 98:1,15 99:1<br/> 100:1,19 101:1,15<br/> 102:1 103:1 104:1<br/> 104:13 105:1,5,6<br/> 105:10,20 106:1,6<br/> 107:1 108:1 109:1<br/> 110:1,20 111:1,6<br/> 112:1 113:1,10<br/> 114:1,4 115:1<br/> 116:1,21 117:1,2<br/> 117:6 118:1,8<br/> 119:1,11 120:1,24<br/> 121:7<br/> <b>Garten's (1)</b><br/> 104:25<br/> <b>gears (1)</b><br/> 62:14<br/> <b>general (15)</b><br/> 7:5,11,13,18 20:11<br/> 53:21 55:15 71:4<br/> 74:10 75:22 78:21<br/> 93:7 99:12 103:10<br/> 103:11<br/> <b>generally (9)</b><br/> 10:7 12:18 21:13<br/> 36:9 53:18 66:7<br/> 72:3 75:12 81:11<br/> <b>generated (4)</b><br/> 19:13 20:8 21:3<br/> 24:9<br/> <b>gentleman (2)</b><br/> 74:18 75:24<br/> <b>give (14)</b><br/> 17:9 18:21 26:8<br/> 28:12 29:10 32:10<br/> 34:5,21 47:8,15<br/> 100:21 103:24</p> | <p>106:9 111:3<br/> <b>given (3)</b><br/> 74:4 102:25 121:10<br/> <b>giving (3)</b><br/> 43:11 46:8 113:3<br/> <b>go (13)</b><br/> 18:22 23:10 26:3<br/> 36:12 38:13 39:13<br/> 50:11 54:17 78:19<br/> 90:15 91:3 112:23<br/> 116:14<br/> <b>goes (3)</b><br/> 21:18 25:13 98:14<br/> <b>going (28)</b><br/> 20:20 27:19 38:14<br/> 68:21 70:19 81:12<br/> 84:12 86:17,18<br/> 87:18 88:16 89:5<br/> 89:16 96:5 97:18<br/> 99:4 100:11,13,18<br/> 104:4 109:16<br/> 112:18 114:15,17<br/> 117:20,24 118:2,7<br/> <b>gold (47)</b><br/> 40:8,9,15,16,21<br/> 41:4,18 42:12,22<br/> 46:20 47:18,18<br/> 48:21,23 49:10,13<br/> 51:19,21,25 52:2<br/> 52:10,20,20 53:2<br/> 53:3,5,6,6,10,11<br/> 53:12,12 56:11,23<br/> 57:11 58:14,17<br/> 59:7,15 60:15,19<br/> 66:7,9 69:14<br/> 73:17,18 74:2<br/> <b>Goldman (1)</b><br/> 101:21<br/> <b>golf (19)</b><br/> 16:3 19:7 21:16<br/> 27:7,8,10,11,13<br/> 27:15,16 33:9,11<br/> 33:15,19,23 34:2<br/> 59:11,15 66:11<br/> <b>golf-related (1)</b><br/> 17:16<br/> <b>good (1)</b><br/> 89:5<br/> <b>goods (9)</b><br/> 15:12 19:13 21:9<br/> 23:17 26:2 61:16<br/> 83:3 89:10 113:11</p> | <p><b>gotten (1)</b><br/> 116:22<br/> <b>governed (1)</b><br/> 5:22<br/> <b>grab (2)</b><br/> 46:2 48:17<br/> <b>gradient (1)</b><br/> 66:13<br/> <b>grading (1)</b><br/> 58:16<br/> <b>great (1)</b><br/> 23:11<br/> <b>gross (1)</b><br/> 19:11<br/> <b>growing (1)</b><br/> 24:17<br/> <b>guess (4)</b><br/> 14:14 16:9 17:25<br/> 23:7<br/> <b>guidance (2)</b><br/> 25:9 61:24<br/> <b>guy (2)</b><br/> 35:25 54:4</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>H (1)</b><br/> 4:2<br/> <b>hall (1)</b><br/> 53:9<br/> <b>hand (3)</b><br/> 25:10 66:21 121:20<br/> <b>handed (3)</b><br/> 38:21 56:14 64:19<br/> <b>handling (2)</b><br/> 75:20 76:6<br/> <b>hands (4)</b><br/> 98:5,9,13,19<br/> <b>happened (1)</b><br/> 96:24<br/> <b>harassing (1)</b><br/> 104:18<br/> <b>Hard (2)</b><br/> 23:20 84:25<br/> <b>hats (2)</b><br/> 33:12 34:2<br/> <b>Hawaii (1)</b><br/> 60:9<br/> <b>heading (2)</b><br/> 4:18 67:3<br/> <b>headquarters (1)</b><br/> 50:8<br/> <b>Hello (1)</b></p> |
|---|---|---|---|

|   |  |  |  |
|---|--|--|--|
| <p>70:23<br/> <b>hereinbefore</b> (1)<br/> 121:8<br/> <b>hereunto</b> (1)<br/> 121:19<br/> <b>Hi</b> (1)<br/> 70:24<br/> <b>highlighted</b> (1)<br/> 59:7<br/> <b>highlights</b> (1)<br/> 58:17<br/> <b>highly</b> (1)<br/> 65:10<br/> <b>history</b> (1)<br/> 94:2<br/> <b>hold</b> (1)<br/> 117:16<br/> <b>holding</b> (1)<br/> 116:12<br/> <b>home</b> (9)<br/> 17:18 21:14 34:19<br/> 34:23 35:2, 5, 9, 10<br/> 35:13<br/> <b>home-related</b> (1)<br/> 34:25<br/> <b>hopefully</b> (1)<br/> 113:7<br/> <b>host</b> (4)<br/> 16:8 31:5, 7, 10<br/> <b>hotel</b> (24)<br/> 16:2 17:3 19:6<br/> 27:19, 23, 23, 24, 25<br/> 28:2, 8, 22 57:8<br/> 58:25 59:5, 21, 23<br/> 60:2, 5, 6, 8, 11, 25<br/> 61:4, 5<br/> <b>hotels</b> (4)<br/> 33:17 60:4, 7, 10<br/> <b>house</b> (74)<br/> 8:2 16:9 17:10<br/> 18:5, 18, 18, 20, 23<br/> 18:25 19:3, 14<br/> 21:10 25:25 26:9<br/> 27:3 31:21 32:11<br/> 32:12, 13 34:6, 22<br/> 35:18 36:6 37:2, 9<br/> 39:7, 11, 16, 21<br/> 41:16 42:7, 15, 20<br/> 43:17, 21 44:8, 13<br/> 45:8, 12, 21, 24<br/> 46:11, 17 47:6<br/> 48:9 49:3, 16, 20</p> | <p>50:22 51:4, 8, 14<br/> 51:19 56:11 57:25<br/> 58:3, 5, 10 59:2, 6<br/> 61:18, 25 62:10<br/> 65:15 66:19 68:8<br/> 68:18 81:4 83:18<br/> 83:19 94:13, 15<br/> 107:12, 21<br/> <a href="http://www.trum...">http://www.trum...</a><br/> 4:20 67:4<br/> <b>Hubbard</b> (5)<br/> 1:18 2:4 11:11<br/> 62:25 121:11<br/> <b>Huesen</b> (1)<br/> 32:25<br/> <b>huge</b> (1)<br/> 28:22<br/> <b>Hughes</b> (5)<br/> 1:18 2:4 11:11<br/> 62:25 121:11<br/> <b>hundreds</b> (5)<br/> 18:19 19:9 20:2<br/> 73:3, 14</p> <hr/> <p><b>I</b></p> <hr/> <p><b>idea</b> (1)<br/> 31:11<br/> <b>identical</b> (3)<br/> 40:22 50:6 114:11<br/> <b>identification</b> (5)<br/> 13:10 38:19 56:8<br/> 64:16 67:5<br/> <b>identified</b> (1)<br/> 5:15<br/> <b>identifier</b> (2)<br/> 27:8, 9<br/> <b>identify</b> (5)<br/> 58:18 59:9 60:21<br/> 67:7 102:9<br/> <b>identity</b> (1)<br/> 76:2<br/> <b>image</b> (3)<br/> 4:15 62:11 64:15<br/> <b>images</b> (4)<br/> 4:9, 12 38:18 56:7<br/> <b>imagine</b> (4)<br/> 33:22 34:3 84:15<br/> 86:14<br/> <b>important</b> (2)<br/> 102:19 111:6<br/> <b>improper</b> (1)<br/> 87:23</p> | <p><b>in-house</b> (3)<br/> 62:24 63:2, 23<br/> <b>include</b> (2)<br/> 7:24 25:15<br/> <b>includes</b> (2)<br/> 11:2 50:20<br/> <b>including</b> (8)<br/> 8:2 10:5 20:25<br/> 57:22 58:7 66:2<br/> 92:21 115:12<br/> <b>independently</b> (2)<br/> 80:20 81:2<br/> <b>Index</b> (1)<br/> 3:15<br/> <b>indicate</b> (2)<br/> 42:19 47:16<br/> <b>individual</b> (1)<br/> 95:21<br/> <b>industrial</b> (1)<br/> 15:6<br/> <b>informal</b> (1)<br/> 43:8<br/> <b>information</b> (4)<br/> 91:16 92:5 114:24<br/> 116:25<br/> <b>infringe</b> (2)<br/> 83:24 89:6<br/> <b>infringement</b> (4)<br/> 11:4 32:5 63:11<br/> 87:20<br/> <b>initial</b> (2)<br/> 110:8, 18<br/> <b>Initiative</b> (1)<br/> 102:10<br/> <b>insight</b> (1)<br/> 54:19<br/> <b>instinct</b> (1)<br/> 53:17<br/> <b>instruct</b> (1)<br/> 105:5<br/> <b>instructing</b> (2)<br/> 88:2 104:6<br/> <b>intellectual</b> (10)<br/> 7:21, 24 8:7 10:17<br/> 10:19 11:8, 22<br/> 12:4 64:10 68:25<br/> <b>intending</b> (1)<br/> 83:14<br/> <b>interest</b> (1)<br/> 72:19<br/> <b>interested</b> (2)<br/> 55:16 121:18</p> | <p><b>interests</b> (3)<br/> 12:11 66:8, 12<br/> <b>internal</b> (4)<br/> 10:11 11:9 23:11<br/> 75:3<br/> <b>internally</b> (2)<br/> 63:25 88:22<br/> <b>international</b> (16)<br/> 19:6, 8, 17 27:22<br/> 28:2, 8 58:21, 21<br/> 58:25 59:3, 21, 23<br/> 60:2, 5, 8, 11<br/> <b>internationally...</b><br/> 24:5, 16 27:16<br/> 31:10 40:14<br/> <b>Internet</b> (5)<br/> 23:8 67:16 68:2<br/> 91:19, 22<br/> <b>Interrogatories...</b><br/> 93:19<br/> <b>introduce</b> (2)<br/> 70:12 90:13<br/> <b>invest</b> (1)<br/> 88:11<br/> <b>investment</b> (2)<br/> 102:14 103:15<br/> <b>Investor</b> (1)<br/> 45:20<br/> <b>involve</b> (1)<br/> 8:18<br/> <b>involved</b> (21)<br/> 8:15, 24 9:22 10:22<br/> 10:23 11:14, 20, 24<br/> 12:3, 5, 11, 16 15:9<br/> 16:17 20:23 22:14<br/> 22:16 25:2, 17<br/> 30:19 45:2<br/> <b>involving</b> (1)<br/> 82:19<br/> <b>irrelevant</b> (9)<br/> 97:25 100:17 101:3<br/> 102:16 103:17<br/> 104:17 112:22<br/> 113:5, 16<br/> <b>Israel</b> (3)<br/> 32:4, 6, 6<br/> <b>issue</b> (2)<br/> 64:7 99:18<br/> <b>issued</b> (2)<br/> 5:23 78:24<br/> <b>issues</b> (3)<br/> 9:3 36:21 62:7</p> |
|---|--|--|--|

|   |  |   |   |
|---|--|---|---|
| <b>iTrump (2)</b><br>89:10 90:19<br><b>Ivanka (5)</b><br>9:23, 24 11:24<br>34:14, 16  | 23:6 24:10, 22, 24<br>25:2 26:22 27:3<br>27:19, 25 28:25<br>30:11 31:6, 7, 17<br>31:18 33:20 34:2<br>34:9 36:23, 25<br>37:13, 14, 18 38:15<br>39:5, 12, 24 40:8, 8<br>40:13, 24 41:21, 22<br>41:22, 23 42:3, 22<br>43:25 45:2 46:5<br>46:14, 24 47:15, 17<br>47:19 48:3, 17, 18<br>50:9 51:12, 16<br>52:4, 5, 10, 15, 17<br>52:22 53:17 54:5<br>55:7, 12 58:10<br>59:6 60:12 61:25<br>63:10 67:17 68:3<br>68:4, 7, 19 69:9<br>70:2 71:2 73:19<br>74:25 76:4, 10, 13<br>79:14, 17, 21, 24, 25<br>80:4 82:4 83:9, 13<br>84:5, 6, 7 85:18<br>88:16, 19 89:15<br>91:9, 10, 13, 15, 20<br>91:21, 22 93:3, 4, 6<br>93:10, 13, 16, 18, 19<br>94:4, 8 98:4 100:4<br>102:6, 7 104:3<br>106:12 108:11, 21<br>108:24 110:13<br>111:11, 18 112:8<br>114:5, 8, 12 116:10<br>116:23, 25 117:18 | 15:18<br><b>largest (1)</b><br>33:2<br><b>Las (5)</b><br>20:22 21:22 27:24<br>58:25 59:5<br><b>laughing (2)</b><br>112:19, 20<br><b>law (11)</b><br>2:16 76:18 81:10<br>81:14, 16 98:7, 17<br>106:25 108:13<br>110:21 111:7<br><b>lawsuit (2)</b><br>72:7 103:8<br><b>lawyer (4)</b><br>93:7 95:20 109:20<br>117:19<br><b>lawyers (2)</b><br>10:13 109:11<br><b>laying (1)</b><br>15:5<br><b>learn (2)</b><br>61:22 103:14<br><b>Learning (1)</b><br>44:19<br><b>leave (1)</b><br>41:2<br><b>lectures (3)</b><br>62:5, 12 70:7<br><b>Leerhsen (2)</b><br>49:20 51:8<br><b>left (1)</b><br>78:7<br><b>legal (20)</b><br>7:20 8:8 9:5, 6<br>10:5, 15 20:23<br>72:20 81:23 82:16<br>87:19 89:17, 25<br>90:2 92:24 98:25<br>99:18 109:18<br>110:25 111:12<br><b>legal-related (1)</b><br>8:11<br><b>legally (1)</b><br>25:6<br><b>Lena (2)</b><br>2:12 78:14<br><b>Lessons (1)</b><br>45:19<br><b>let's (14)</b><br>22:2 23:15 26:3 | 36:2 39:13 41:7<br>42:5 45:5 57:13<br>87:11 91:3 98:17<br>103:24 112:23<br><b>lettering (35)</b><br>40:9, 16, 22 41:4, 18<br>42:13, 22 46:3, 21<br>48:17 49:9, 22<br>50:3, 4, 4, 23, 25<br>51:10, 12, 19, 21<br>52:11 56:12 57:10<br>58:17 59:4, 7<br>60:15, 19 65:9, 11<br>65:17 68:16, 16<br>69:14<br><b>letters (7)</b><br>11:2 28:25 43:22<br>46:2 47:17 56:22<br>63:6<br><b>liable (2)</b><br>102:14, 19<br><b>license (4)</b><br>9:3, 4 34:11 102:15<br><b>licensed (4)</b><br>17:13 34:12 35:3<br>71:5<br><b>licensees (2)</b><br>21:8 23:15<br><b>licensing (20)</b><br>8:19, 23, 25 9:6, 7, 8<br>11:15, 25 12:7, 7<br>16:2, 7 17:3, 8<br>20:12, 17 22:2<br>34:17 46:6 113:12<br><b>life (8)</b><br>43:9, 12, 14, 20 44:3<br>46:15 53:25 54:6<br><b>likeness (1)</b><br>34:18<br><b>likes (2)</b><br>54:8, 8<br><b>limited (2)</b><br>81:5 83:7<br><b>line (9)</b><br>35:2 60:4 69:5<br>96:6 97:19 101:10<br>112:20 113:8<br>120:7<br><b>lines (1)</b><br>68:21<br><b>link (3)</b><br>56:19 57:17 59:10 |
| <b>J (11)</b><br>1:4 48:12, 22 49:19<br>51:7 71:23 78:17<br>95:11 97:15<br>106:21 110:4<br><b>jail (1)</b><br>107:2<br><b>James (2)</b><br>77:13 78:6<br><b>Jeffrey (1)</b><br>101:21<br><b>job (2)</b><br>12:12, 14<br><b>Joseph (1)</b><br>74:19<br><b>Jr (2)</b><br>9:23 11:24<br><b>judge (2)</b><br>102:7, 13<br><b>judgment (1)</b><br>107:5<br><b>Julian (1)</b><br>2:19<br><b>Justice (1)</b><br>102:4<br><b>justify (1)</b><br>89:16 | <b>known (4)</b><br>28:17 47:20 52:17<br>70:8  |   |   |
| <b>K</b><br><b>keep (3)</b><br>46:7 57:14 95:18<br><b>Kern (2)</b><br>102:5, 7<br><b>Kick (3)</b><br>43:20 44:5, 25<br><b>kind (3)</b><br>40:15 54:11 62:13<br><b>kinds (1)</b><br>21:14<br><b>know (152)</b><br>8:2, 9, 16 10:12, 15<br>11:3 12:9 14:2, 6<br>15:16, 19 16:16, 23<br>18:9, 13 19:16<br>20:3, 3, 10 21:14  | <b>L</b><br><b>labels (1)</b><br>28:25<br><b>lack (2)</b><br>70:15 86:23<br><b>language (2)</b><br>25:12 85:13<br><b>large (2)</b><br>40:8 42:12<br><b>largely (2)</b><br>37:15 46:3<br><b>larger (1)</b>  |   |   |

|   |  |  |   |
|---|--|--|---|
| <b>Links (1)</b><br>27:17   | 41:14 44:13 48:5<br>55:21, 22 66:12<br>77:3 88:11                          | 33:3   | 5:14 13:10, 13<br>38:18 56:7 64:15<br>64:19 67:5  |
| <b>lintels (1)</b><br>52:21   | <b>lots (1)</b><br>8:16  | <b>manufactures (1)</b><br>33:7  | <b>market (2)</b><br>62:11 66:19  |
| <b>list (5)</b><br>37:22 38:11 86:20<br>87:11 88:14   | <b>loudly (1)</b><br>69:10   | <b>manufacturing (1)</b><br>32:18  | <b>marketing (24)</b><br>21:12, 19, 20, 24<br>22:8, 15, 19, 20<br>23:3, 12, 16, 17<br>25:4, 5, 9, 11, 20<br>42:24 58:4, 7 62:3<br>69:4 70:3 83:8  |
| <b>listed (1)</b><br>13:23  | <b>lower (1)</b><br>27:25  | <b>marble (1)</b><br>53:3  |   |
| <b>lists (2)</b><br>37:3 39:12  | <hr/> <b>M</b> <hr/>   | <b>March (2)</b><br>4:7 13:9   |   |
| <b>lit-up (1)</b><br>59:7   | <b>M (1)</b><br>3:2  | <b>Marcraft (1)</b><br>33:6  |   |
| <b>litigated (1)</b><br>32:6  | <b>Macy's (1)</b><br>33:4  | <b>mark (140)</b><br>4:6 8:3 13:8, 17<br>14:8, 12, 15 16:9<br>17:10, 13 18:5, 6, 8<br>18:18, 18, 20, 24, 25<br>19:2, 3, 14 20:13<br>20:16 21:10 22:2<br>22:6 25:25 26:9<br>26:10 27:3, 15<br>28:13, 22 29:24<br>30:7, 9, 12 31:8, 21<br>32:11, 12, 13, 14<br>34:6, 6, 8, 22, 22<br>35:3, 18 36:6 37:2<br>37:9 38:16 39:7<br>39:11, 16, 21 41:10<br>41:17 42:7, 16, 20<br>43:17, 21 44:7, 8<br>44:10, 13 45:8, 12<br>45:21, 24 46:11, 17<br>47:6 48:9 49:4, 16<br>49:20 50:22 51:4<br>51:8, 14, 15, 19<br>56:11 57:25 58:3<br>58:6, 10 59:2, 6<br>61:18, 25 62:10<br>64:24 65:15 66:19<br>67:23 68:8, 18<br>69:2, 13, 15 73:18<br>74:20, 22 79:23<br>80:2, 15 81:4, 21<br>82:11 83:4, 11, 18<br>83:19 86:7, 8<br>89:10 91:7, 11, 13<br>91:17 92:23 94:2<br>94:13, 15 97:22<br>98:10 107:12, 21<br>107:24 108:22<br>109:2 110:23<br>113:11 114:3, 11 | <b>marketplace (2)</b><br>81:21 82:5  |
| <b>litigation (15)</b><br>7:21 8:9, 10 63:11<br>74:11, 14 75:20<br>78:17, 22 94:20<br>95:24 96:6 100:20<br>100:25 101:2 | <b>magazines (1)</b><br>23:4   |  | <b>marks (33)</b><br>8:2, 3 16:25 19:9<br>27:5 35:4, 19, 23<br>63:9, 12, 14 69:11<br>73:4, 14, 17 74:2<br>75:5 80:4 82:5<br>83:7 84:3 85:25<br>86:2, 4, 20 87:12<br>108:25 109:6<br>111:24 112:7, 11<br>114:7, 10 |
| <b>little (1)</b><br>99:18  | <b>Mahal (5)</b><br>28:6 57:8, 23 58:5<br>58:11                            |  | <b>marriage (1)</b><br>121:17   |
| <b>LLP (3)</b><br>1:19 2:4 121:12   | <b>mail (2)</b><br>96:14 107:18  |  | <b>materials (1)</b><br>42:24   |
| <b>location (1)</b><br>27:9   | <b>main (1)</b><br>13:2  |  | <b>matter (5)</b><br>43:10 53:22 94:18<br>95:23 121:18  |
| <b>logo (6)</b><br>59:21, 25 60:21, 23<br>65:5 69:16  | <b>Makaeff (2)</b><br>97:4, 7  |  | <b>matters (10)</b><br>7:20 8:8, 15, 17, 18<br>8:23 10:6, 15, 19<br>95:25   |
| <b>logos (1)</b><br>16:25   | <b>maker (1)</b><br>34:10  |  | <b>mattresses (2)</b><br>35:6, 10   |
| <b>long (7)</b><br>6:24 61:10 91:21<br>98:17 99:24<br>108:21, 24  | <b>making (4)</b><br>25:12 88:6 93:23<br>100:2                             |  | <b>Mclver (4)</b><br>41:14 46:16 47:11<br>48:13   |
| <b>longer (3)</b><br>31:25 97:3 114:15  | <b>man (2)</b><br>71:2 111:14  |  | <b>mean (15)</b><br>14:13 18:25 19:3, 5<br>26:12, 21 37:6<br>74:13 84:6, 15<br>93:23 98:16 102:6<br>109:10 113:7  |
| <b>look (8)</b><br>26:13 38:23 67:9<br>78:4, 19 79:7<br>88:14 100:4   | <b>manage (1)</b><br>74:14   |  | <b>means (7)</b><br>71:4 81:10, 16, 18<br>98:5 108:11, 24   |
| <b>looks (5)</b><br>40:4 45:11 49:12<br>49:20 56:20   | <b>management (9)</b><br>7:25 8:5 10:25<br>11:14, 16, 18 16:2<br>29:21, 22 |  | <b>media (3)</b><br>23:8 68:3 99:7  |
| <b>lose (1)</b><br>110:23   | <b>managing (1)</b><br>12:6  |  |   |
| <b>lot (22)</b><br>10:24 21:11, 18<br>22:23, 25 24:15<br>33:13, 25 34:24<br>37:8, 14, 21 40:2, 3                        | <b>Manhattan (1)</b><br>27:25  |  |   |
|   | <b>manner (2)</b><br>92:22 106:22  |  |   |
|   | <b>mantra (2)</b><br>54:20 70:6  |  |   |
|   | <b>manufactured (8)</b><br>28:23 32:19, 23, 24<br>32:25 33:5 34:10<br>35:7 |  |   |
|   | <b>manufacturers (1)</b>   | <b>marked (8)</b>  |   |

|  |   |   |   |
|--|---|---|---|
| <b>member (4)</b><br>20:24 21:17 101:23<br>115:15  | 116:15  | 95:21   | 1:21 119:19 121:5   |
| <b>members (5)</b><br>9:16, 18, 21 10:12<br>11:23  | <b>money (3)</b><br>19:11 23:14 88:11   | <b>names (3)</b><br>11:6 63:7, 20   | 121:24  |
| <b>memberships (1)</b><br>21:16  | <b>monitor (2)</b><br>63:18, 19   | <b>narrative (1)</b><br>55:2  | <b>notation (1)</b><br>43:3   |
| <b>memorize (1)</b><br>81:3  | <b>monitoring (1)</b><br>63:18  | <b>Natasha (2)</b><br>2:9 78:11   | <b>noted (1)</b><br>119:5   |
| <b>memory (2)</b><br>80:22 86:19   | <b>months (1)</b><br>16:18  | <b>national (7)</b><br>19:7 27:7, 10, 10, 15<br>59:11, 15   | <b>notice (2)</b><br>76:24 77:12  |
| <b>mentioned (19)</b><br>8:12 10:4 25:24<br>26:6 28:10 29:8<br>29:20, 25 31:18<br>32:9 34:4, 19 36:3<br>36:5 51:18, 23<br>55:19 56:10 73:2 | <b>Mortgage (1)</b><br>19:8   | <b>nature (4)</b><br>7:15 23:5 41:23<br>114:11  | <b>noticing (1)</b><br>68:12  |
| <b>Meredith (4)</b><br>41:14 46:16 47:11<br>48:13  | <b>mother (5)</b><br>103:25 106:10, 21<br>106:23 107:6  | <b>NBC (1)</b><br>31:8  | <b>notified (3)</b><br>63:24 64:9 65:3  |
| <b>methods (1)</b><br>68:3   | <b>motion (2)</b><br>117:21 118:2   | <b>need (7)</b><br>46:14 67:10 100:4<br>101:13 102:23<br>115:8 116:23   | <b>noun (2)</b><br>83:12 84:24  |
| <b>million (3)</b><br>20:6 37:25 55:25   | <b>motivation (1)</b><br>72:19  | <b>necessarily (1)</b><br>94:6  | <b>November (3)</b><br>1:13 5:4 121:11  |
| <b>millions (4)</b><br>20:2 23:23 24:4, 23   | <b>motivational (1)</b><br>62:9   | <b>necessary (1)</b><br>12:14   | <b>number (2)</b><br>19:21 37:2   |
| <b>minutes (1)</b><br>88:20  | <b>move (2)</b><br>70:12 113:7  | <b>need (7)</b><br>46:14 67:10 100:4<br>101:13 102:23<br>115:8 116:23   | <b>nuts (1)</b><br>8:7  |
| <b>mirroring (1)</b><br>53:4   | <b>mp3rod@aol.com (1)</b><br>2:22   | <b>needs (1)</b><br>86:25   | <b>NY (1)</b><br>121:12   |
| <b>mislead (1)</b><br>68:9   | <b>Multipage (4)</b><br>4:9, 12 38:17 56:6  | <b>negotiate (1)</b><br>36:23   | <hr/> <b>0</b> <hr/>  |
| <b>misleading (1)</b><br>103:12  | <b>multitude (2)</b><br>15:21 18:21   | <b>negotiating (3)</b><br>31:15 43:14 54:11   | <b>0 (6)</b><br>3:2, 2 4:2 5:3<br>119:4, 4  |
| <b>misrepresentati...</b><br>110:21  | <hr/> <b>N</b> <hr/>  | <b>Never (2)</b><br>47:8, 15  | <b>o'clock (1)</b><br>38:14   |
| <b>missing (4)</b><br>17:3, 21 26:25<br>35:16  | <b>N (9)</b><br>2:2, 9 3:2, 2, 2 4:2<br>5:3 119:4, 4  | <b>new (35)</b><br>1:19, 19, 22 2:7, 7<br>5:5, 5 13:3, 3<br>26:12 29:23 31:10<br>37:22, 23 38:10<br>55:24 71:5 98:25<br>99:18 100:6, 16<br>101:2 102:10, 10<br>103:8, 11 105:2<br>106:6 120:3, 4<br>121:2, 3, 6, 12, 24 | <b>object (10)</b><br>72:9 87:15, 18<br>89:23 96:5 100:17<br>105:11 110:24<br>112:18 113:19   |
| <b>misstates (2)</b><br>73:7, 8  | <b>name (58)</b><br>14:16 16:24 18:11<br>19:3 23:18 26:14<br>28:14 29:18 32:20<br>33:23 34:12, 15, 17<br>38:5 39:10 41:16<br>42:10, 18 44:15, 16<br>46:21 48:14, 20, 22<br>49:7, 9, 23, 24<br>50:24 51:9, 9, 14<br>57:9 59:3, 12, 14<br>59:16 60:3, 6, 23<br>61:4 62:2 65:7, 8<br>65:14, 21 67:20<br>68:8, 18, 23 69:21<br>74:19 75:25 83:17<br>86:8 99:13 102:4<br>108:4 | <b>newspapers (1)</b><br>23:5   | <b>objected (1)</b><br>72:20  |
| <b>Model (2)</b><br>29:21, 22  | <b>named (1)</b>  | <b>nonstop (1)</b><br>54:4  | <b>objecting (2)</b><br>80:17, 18   |
| <b>modeling (1)</b><br>29:22   |   | <b>normal (2)</b><br>78:23 86:11  | <b>objection (24)</b><br>54:7, 13, 25 70:14<br>71:14 73:7 74:3<br>76:16, 21 80:21<br>81:22 86:23 87:25<br>88:6 97:19 98:23<br>100:14, 22, 23<br>101:6, 13 102:16<br>103:17 109:18 |
| <b>Models (1)</b><br>29:20   |   | <b>Nos (6)</b><br>4:7, 10, 13 13:9<br>38:18 56:7  | <b>objections (2)</b><br>100:3 113:21   |
| <b>modern (1)</b><br>23:7  |   | <b>Notary (4)</b>   | <b>obviously (5)</b><br>6:10 29:24 39:12<br>40:13 62:2  |
| <b>moment (1)</b>  |   |   |   |

|   |  |  |  |
|---|--|--|--|
| <p><b>offer (5)</b><br/>6:14 13:5 20:18<br/>61:17 86:18</p> <p><b>offered (7)</b><br/>4:3 5:15 15:13<br/>28:21 67:19, 22<br/>116:20</p> <p><b>offering (6)</b><br/>15:9 19:13 21:13<br/>50:19 115:9 117:2</p> <p><b>offhand (7)</b><br/>33:8 71:16 73:19<br/>83:9 84:7 91:12<br/>114:12</p> <p><b>office (6)</b><br/>1:2 5:25 13:17<br/>53:7 82:18 87:13</p> <p><b>offices (3)</b><br/>1:18 13:2 121:11</p> <p><b>Oh (1)</b><br/>17:6</p> <p><b>okay (26)</b><br/>6:16 17:22 45:4<br/>47:3 56:3 70:18<br/>72:25 73:15, 20<br/>74:5 79:13 80:11<br/>81:8 82:17 85:8<br/>86:16 97:14<br/>104:22 105:14<br/>109:21, 25 111:5<br/>111:23 118:10, 11<br/>119:2</p> <p><b>once (1)</b><br/>106:25</p> <p><b>ones (2)</b><br/>88:15, 16</p> <p><b>online (1)</b><br/>33:15</p> <p><b>operates (2)</b><br/>53:15 57:21</p> <p><b>operating (1)</b><br/>102:14</p> <p><b>opinion (10)</b><br/>72:18 82:15, 16<br/>83:20, 21, 22 84:13<br/>102:23 103:10<br/>116:9</p> <p><b>opportunity (1)</b><br/>110:17</p> <p><b>oppose (3)</b><br/>63:15 88:16 89:4</p> <p><b>opposed (2)</b></p> | <p>80:13 113:14</p> <p><b>opposer (4)</b><br/>1:5, 18 2:5 71:24</p> <p><b>opposer's (1)</b><br/>6:5</p> <p><b>opposing (7)</b><br/>63:11 64:24 74:4<br/>75:6 76:22 79:15<br/>79:22</p> <p><b>opposition (9)</b><br/>1:6 64:11 76:25<br/>77:4, 13 89:9 90:4<br/>90:25 98:2</p> <p><b>oppositions (3)</b><br/>11:4 63:9 71:12</p> <p><b>options (1)</b><br/>71:21</p> <p><b>order (2)</b><br/>5:20, 23</p> <p><b>Oregon (1)</b><br/>97:9</p> <p><b>organization (33)</b><br/>6:23, 25 7:4, 8 9:13<br/>9:14 10:5 12:24<br/>13:2, 18 14:4, 16<br/>15:8, 10, 13, 17<br/>16:17, 19, 20, 21<br/>19:12 23:15 29:17<br/>50:8 53:10 58:23<br/>59:19 61:17 65:12<br/>68:11, 22 75:21<br/>101:24</p> <p><b>original (1)</b><br/>65:4</p> <p><b>outcome (1)</b><br/>121:18</p> <p><b>outside (9)</b><br/>11:10 24:12 62:24<br/>63:2, 17, 21 64:2<br/>81:25 88:23</p> <p><b>outstanding (1)</b><br/>87:3</p> <p><b>overall (1)</b><br/>70:6</p> <p><b>overcome (1)</b><br/>42:3</p> <p><b>oversee (5)</b><br/>10:15 12:12 21:20<br/>21:23 74:10</p> <p><b>overseeing (7)</b><br/>7:19 9:5 10:23, 24<br/>11:20 12:3 25:10</p> | <p><b>overseen (1)</b><br/>82:8</p> <p><b>oversight (2)</b><br/>25:5 77:7</p> <p><b>owned (2)</b><br/>9:15 61:23</p> <p><b>owner (6)</b><br/>16:19 29:16 35:17<br/>73:14 110:22<br/>115:23</p> <p><b>owns (4)</b><br/>35:17 57:21 73:3<br/>108:4</p> <hr/> <p style="text-align: center;"><b>P</b></p> <hr/> <p><b>P (4)</b><br/>2:2, 2 5:3 119:4</p> <p><b>p.m (3)</b><br/>107:9, 9 119:5</p> <p><b>P.O (1)</b><br/>2:18</p> <p><b>page (36)</b><br/>3:11, 12, 15 4:19<br/>41:7 42:5, 14 43:3<br/>43:16, 18 45:5, 15<br/>46:9 47:4 48:8<br/>49:2, 15 56:25<br/>57:3, 4, 6, 10, 13, 14<br/>57:15 58:18, 19<br/>59:8, 9, 20 60:17<br/>60:20 67:3 68:14<br/>69:16 120:7</p> <p><b>pageants (2)</b><br/>29:15 30:21</p> <p><b>pages (4)</b><br/>38:23 39:19 59:20<br/>67:9</p> <p><b>paid (2)</b><br/>103:13 111:17</p> <p><b>Palm (1)</b><br/>27:10</p> <p><b>Panama (1)</b><br/>28:8</p> <p><b>panel (1)</b><br/>53:11</p> <p><b>panes (1)</b><br/>52:24</p> <p><b>papers (3)</b><br/>77:3 79:19 80:19</p> <p><b>paralegal (3)</b><br/>10:18, 20, 21</p> <p><b>paralegals (1)</b></p> | <p>10:14</p> <p><b>pardon (1)</b><br/>80:8</p> <p><b>Park (8)</b><br/>1:19 2:6 26:20, 20<br/>28:2 60:24 61:3<br/>121:12</p> <p><b>part (25)</b><br/>8:25 41:5, 5 44:8<br/>44:14, 15, 21 46:18<br/>46:21 47:14 48:15<br/>48:15, 22 50:24<br/>51:9 52:6 55:8<br/>58:4 59:14 60:4<br/>62:3, 18 80:6<br/>85:16 108:5</p> <p><b>particular (5)</b><br/>48:6 58:24 60:17<br/>64:4 75:14</p> <p><b>particularly (1)</b><br/>69:14</p> <p><b>parties (7)</b><br/>5:13, 19, 21 23:13<br/>48:2 121:16, 16</p> <p><b>parts (1)</b><br/>55:14</p> <p><b>party (3)</b><br/>20:18 22:4 34:10</p> <p><b>Patent (3)</b><br/>1:2 5:24 13:17</p> <p><b>Pause (25)</b><br/>36:13 38:6, 24<br/>48:25 67:11 70:20<br/>72:24 77:9 82:2<br/>84:20 92:7 94:9<br/>98:21, 24 99:6, 11<br/>101:19 103:23<br/>105:7 112:17<br/>113:24 114:9, 13<br/>114:25 115:20</p> <p><b>pay (1)</b><br/>111:15</p> <p><b>pending (2)</b><br/>87:4 99:5</p> <p><b>people (19)</b><br/>10:22 22:17 25:4, 9<br/>31:6 41:2 50:18<br/>52:7 55:13, 16, 17<br/>55:17 61:22 82:25<br/>84:15 102:9<br/>103:13 111:15<br/>112:15</p> |
|---|--|--|--|



|  |   |   |   |
|--|---|---|---|
| <b>percentage (2)</b><br>24:6, 7   | 92:18 110:8, 16<br>117:8  | <b>predecessor (2)</b><br>76:3, 4                             | <b>probably (11)</b><br>19:23 20:3, 8 24:11<br>75:25 86:11, 12<br>95:15 100:9<br>108:12 114:16  |
| <b>perfectly (1)</b><br>90:13  | <b>plaintiff's (1)</b><br>92:17                                       | <b>predominantly (1)</b><br>15:19                             | <b>problem (1)</b><br>71:3  |
| <b>perform (1)</b><br>10:8   | <b>planning (3)</b><br>15:4, 20 35:24                                 | <b>preference (1)</b><br>115:3                                | <b>procedures (1)</b><br>22:10  |
| <b>period (3)</b><br>6:5 92:18 112:3   | <b>play (1)</b><br>92:13  | <b>prepare (1)</b><br>12:19                                   | <b>proceed (2)</b><br>101:16 113:22   |
| <b>person (5)</b><br>12:2 40:11 102:3<br>104:19, 20                                      | <b>playoff (1)</b><br>83:18   | <b>prepared (1)</b><br>87:17                                  | <b>proceeding (5)</b><br>5:22 64:8 98:2<br>101:4 104:14   |
| <b>personal (1)</b><br>51:16   | <b>Plaza (5)</b><br>1:19 2:6 26:19<br>28:5 121:12                     | <b>presence (1)</b><br>121:13                                 | <b>process (3)</b><br>22:12 25:23 88:18   |
| <b>personally (10)</b><br>35:22 71:13 74:7<br>82:22, 23 89:21<br>90:3 102:7, 13<br>109:8 | <b>pleas (2)</b><br>76:23 77:5  | <b>present (1)</b><br>115:25                                  | <b>produce (1)</b><br>93:14   |
| <b>perspective (2)</b><br>9:2, 5   | <b>please (7)</b><br>47:4 49:3 51:3<br>79:8 101:16<br>105:17 106:5    | <b>president (2)</b><br>86:13 92:21                           | <b>produced (2)</b><br>30:2, 15   |
| <b>petition (2)</b><br>78:3 103:22   | <b>plus (1)</b><br>18:12  | <b>President/Found...</b><br>44:19                            | <b>producer (3)</b><br>16:15 29:12 30:6   |
| <b>Philadelphia (2)</b><br>27:12 59:12   | <b>point (5)</b><br>67:17 74:24 78:7<br>78:10 99:8                    | <b>prevail (7)</b><br>43:13 44:2 46:25<br>54:8, 9, 21 107:4   | <b>produces (2)</b><br>16:14 29:13  |
| <b>Phillips-Van (1)</b><br>32:25   | <b>police (5)</b><br>22:5, 18 23:12<br>62:19 63:4                     | <b>prevailed (1)</b><br>47:25                                 | <b>producing (1)</b><br>89:12   |
| <b>phone (1)</b><br>83:2   | <b>policing (5)</b><br>11:5 62:16, 16, 22<br>113:13                   | <b>previously (2)</b><br>29:20 74:19                          | <b>product (5)</b><br>9:8 16:6 17:3, 8<br>22:24   |
| <b>phoned (2)</b><br>82:18, 23   | <b>popular (1)</b><br>55:20   | <b>primary (1)</b><br>8:22                                    | <b>production (5)</b><br>30:11, 19, 19 31:3, 4  |
| <b>phrase (1)</b><br>98:5  | <b>portfolio (8)</b><br>8:4 10:24 11:15, 18<br>11:21 12:7, 13<br>82:8 | <b>principal (4)</b><br>4:6 13:8 29:16<br>106:25              | <b>productions (8)</b><br>16:14 29:12, 25<br>30:4, 6, 7, 10, 14   |
| <b>pick (1)</b><br>88:15   | <b>portion (2)</b><br>19:18 107:24                                    | <b>principally (6)</b><br>9:14 10:22 11:20<br>12:3, 14 61:23  | <b>products (22)</b><br>16:8 17:9, 14, 17<br>18:2, 4, 16 20:18<br>21:13, 15 22:15<br>28:21 31:23 33:14<br>33:21 35:5, 11<br>46:6 51:15, 15, 16<br>66:20 |
| <b>picked (2)</b><br>86:12, 15   | <b>position (3)</b><br>7:3, 7 9:24                                    | <b>printed (1)</b><br>91:21                                   | <b>program (3)</b><br>61:21, 21 68:6  |
| <b>picture (7)</b><br>37:5 38:4 58:13, 24<br>61:4 64:22 91:8                             | <b>possession (1)</b><br>109:11                                       | <b>printout (1)</b><br>91:18                                  | <b>project (4)</b><br>22:5 24:20 54:12<br>58:12   |
| <b>pictures (1)</b><br>41:2  | <b>possibly (1)</b><br>33:22  | <b>prior (6)</b><br>45:11, 14 75:22<br>76:9 77:5, 16          | <b>projects (8)</b><br>21:4, 21 22:16<br>34:25 46:5 48:6, 7<br>66:19  |
| <b>pieces (2)</b><br>52:21, 22   | <b>potentially (1)</b><br>63:15                                       | <b>private (3)</b><br>21:16 101:21, 25                        | <b>prominent (13)</b>   |
| <b>pillars (1)</b><br>53:15  | <b>power (3)</b><br>41:22 52:3 53:16                                  | <b>privilege (6)</b><br>6:12 72:22 115:18<br>115:23, 24 116:2 |   |
| <b>pinpoint (1)</b><br>23:20   | <b>practicing (1)</b><br>94:22  | <b>privileged (2)</b><br>6:12 72:11                           |   |
| <b>Place (1)</b><br>26:23  | <b>predates (1)</b><br>75:19  | <b>pro (1)</b><br>33:18                                       |   |
| <b>places (2)</b><br>27:18 33:4  |   |   |   |
| <b>plaintiff (4)</b>   |   |   |   |

|   |  |   |  |
|---|--|---|--|
| <p>28:25 38:4 40:21<br/>41:18 42:12 43:22<br/>45:25 46:21 47:17<br/>48:17 49:8, 22<br/>51:11<br/><b>prominently (20)</b><br/>16:24 18:11 36:6<br/>37:2, 4 40:17, 18<br/>42:19 43:21 44:25<br/>45:22 46:20 48:14<br/>48:21 50:22 52:12<br/>58:4 59:3, 14 65:9<br/><b>promote (3)</b><br/>18:3 21:9 62:11<br/><b>promoted (1)</b><br/>7:13<br/><b>promotion (1)</b><br/>58:5<br/><b>proper (2)</b><br/>25:7, 12<br/><b>properties (10)</b><br/>15:7 26:11, 14 40:3<br/>41:20 50:5 51:23<br/>51:24 56:11 66:11<br/><b>property (10)</b><br/>7:22, 24 8:7 10:18<br/>10:19 11:8, 22<br/>12:4 64:10 68:25<br/><b>protect (3)</b><br/>11:21 22:5 63:4<br/><b>protected (1)</b><br/>111:8<br/><b>protection (1)</b><br/>88:9<br/><b>protections (1)</b><br/>25:13<br/><b>protective (2)</b><br/>5:20, 23<br/><b>protocols (1)</b><br/>75:4<br/><b>proved (1)</b><br/>96:21<br/><b>provide (3)</b><br/>53:20 90:14 114:23<br/><b>provided (1)</b><br/>6:10<br/><b>providing (2)</b><br/>25:8 43:25<br/><b>PTO (3)</b><br/>4:5 13:8 63:8<br/><b>public (9)</b><br/>1:21 40:12 73:22</p> | <p>76:12 107:13<br/>109:5 111:7<br/>119:19 121:5<br/><b>publicity (1)</b><br/>106:18<br/><b>publicly (2)</b><br/>57:21 100:6<br/><b>published (1)</b><br/>37:18<br/><b>Puerto (1)</b><br/>60:9<br/><b>pull (1)</b><br/>75:9<br/><b>purpose (1)</b><br/>107:22<br/><b>purposes (3)</b><br/>35:24 55:9, 13<br/><b>pursuant (2)</b><br/>34:11 115:25<br/><b>put (2)</b><br/>19:20 116:18</p> <hr/> <p><b>Q</b></p> <p><b>qualified (1)</b><br/>31:17<br/><b>question (38)</b><br/>6:8 24:21 39:18<br/>72:12 74:6 80:7<br/>81:24 84:9, 14, 19<br/>85:2, 10, 11 87:3, 8<br/>96:10 104:5, 10, 14<br/>104:25 105:5, 6, 15<br/>105:17, 18, 24<br/>106:2, 5, 7, 14, 15<br/>111:22 112:9, 11<br/>115:10 116:6, 21<br/>117:23<br/><b>questioning (7)</b><br/>96:6 97:19 100:14<br/>101:10, 11 112:21<br/>113:8<br/><b>questions (23)</b><br/>70:11 72:17 81:13<br/>92:22 97:23<br/>100:19, 24 101:17<br/>104:18, 20 114:22<br/>115:10 116:5, 11<br/>116:12 117:4, 6, 7<br/>117:10, 16, 25<br/>118:5, 8<br/><b>quite (1)</b><br/>32:15</p> | <hr/> <p><b>R</b></p> <p><b>R (6)</b><br/>2:2 5:3 119:4<br/>120:2, 2 121:1<br/><b>racketeering (2)</b><br/>108:9, 11<br/><b>radio (1)</b><br/>23:4<br/><b>Rainoff (3)</b><br/>1:20 121:4, 23<br/><b>ran (3)</b><br/>16:16 30:25 31:8<br/><b>read (25)</b><br/>15:2 39:15 41:8<br/>42:6, 14 43:2, 6, 16<br/>45:7, 16 46:10<br/>47:5 48:8 49:2, 15<br/>51:3 69:15 79:19<br/>80:24 95:2 102:17<br/>102:21, 24 106:5, 8<br/><b>reader (1)</b><br/>39:23<br/><b>reader's (2)</b><br/>46:2 48:18<br/><b>readers (1)</b><br/>43:25<br/><b>reading (2)</b><br/>56:25 85:5<br/><b>reads (1)</b><br/>57:14<br/><b>real (23)</b><br/>9:7 14:9 15:4, 19<br/>15:22, 23, 24, 24, 25<br/>15:25 16:2 21:15<br/>22:3 26:6, 11<br/>36:22 45:19 46:5<br/>46:15 50:14 51:15<br/>58:22 103:14<br/><b>reality (1)</b><br/>30:15<br/><b>really (11)</b><br/>12:2 44:24 70:25<br/>85:4, 9 86:10 90:5<br/>100:11 104:4<br/>112:8 113:6<br/><b>Realtime (2)</b><br/>1:21 121:5<br/><b>Realty (4)</b><br/>19:8 58:21, 22 59:4<br/><b>reason (8)</b><br/>82:12 120:9, 11, 13<br/>120:15, 17, 19, 21</p> | <p><b>reasons (1)</b><br/>120:6<br/><b>rebuttal (2)</b><br/>110:13, 17<br/><b>recall (9)</b><br/>64:25 71:16 74:9<br/>77:20, 23 78:6<br/>80:20 90:5, 8<br/><b>receive (1)</b><br/>21:2<br/><b>received (4)</b><br/>49:7, 12 50:14 83:2<br/><b>Recess (2)</b><br/>61:11 107:9<br/><b>recognize (6)</b><br/>13:12 38:22, 25<br/>56:14 64:18 85:19<br/><b>recollection (2)</b><br/>77:11 87:9<br/><b>record (20)</b><br/>12:25 15:3 71:13<br/>71:17, 20 72:6<br/>76:7, 8 78:8 80:25<br/>88:7 90:11 94:10<br/>94:24 112:24<br/>113:4 116:15, 16<br/>116:18 121:9<br/><b>records (3)</b><br/>73:22 76:12 100:7<br/><b>redundant (1)</b><br/>113:6<br/><b>Reed (131)</b><br/>1:19 2:4, 9 3:11<br/>5:11, 18 6:1, 3, 16<br/>6:18 7:1 8:1 9:1<br/>10:1 11:1, 11 12:1<br/>13:1, 5, 11 14:1<br/>15:1 16:1 17:1<br/>18:1 19:1 20:1<br/>21:1 22:1 23:1<br/>24:1 25:1 26:1<br/>27:1 28:1 29:1<br/>30:1 31:1 32:1<br/>33:1 34:1 35:1<br/>36:1 37:1 38:1, 16<br/>38:20 39:1 40:1<br/>41:1 42:1 43:1<br/>44:1 45:1 46:1<br/>47:1 48:1 49:1<br/>50:1 51:1 52:1<br/>53:1 54:1 55:1, 3<br/>56:1, 4, 9 57:1</p> |
|---|--|---|--|

|   |  |  |  |
|---|--|--|--|
| 58:1 59:1 60:1<br>61:1, 9, 12 62:1<br>63:1 64:1, 12, 17<br>65:1 66:1, 21 67:1<br>67:6 68:1 69:1<br>70:10, 16 71:14<br>72:9 73:7 74:3, 6<br>76:16, 21 77:18<br>78:11 81:22 86:22<br>87:18 88:4 90:10<br>96:5 97:18 98:23<br>100:13, 23 101:8<br>101:15 102:16<br>103:17 104:11, 22<br>105:11, 14 106:4<br>106:13 107:7<br>109:18 110:24<br>112:18, 25 113:3<br>113:18, 23 116:8<br>116:14, 19 119:2<br>121:12<br><b>reed@hugheshubb...</b><br>2:11<br><b>refer (3)</b><br>14:17 81:24 103:18<br><b>referring (6)</b><br>56:23, 24 95:9 97:7<br>102:8 103:9<br><b>refers (1)</b><br>15:17<br><b>reflect (1)</b><br>65:12<br><b>reflection (1)</b><br>53:14<br><b>reflective (1)</b><br>54:19<br><b>refresh (2)</b><br>86:19 87:9<br><b>refresher (1)</b><br>86:25<br><b>refuse (1)</b><br>104:14<br><b>refusing (1)</b><br>118:4<br><b>regarded (1)</b><br>55:11<br><b>regarding (14)</b><br>72:17 73:11, 16<br>80:12 81:10, 16, 21<br>82:4, 5 91:17<br>92:22 95:7 99:2<br>100:19 | <b>regardless (1)</b><br>116:6<br><b>Register (2)</b><br>4:6 13:9<br><b>registered (11)</b><br>14:8, 11, 18 19:10<br>60:3 73:16 74:2<br>74:20 83:7 84:3<br>84:21<br><b>registration (6)</b><br>11:5 13:16, 19<br>74:20 85:4, 5<br><b>registrations (2)</b><br>63:20 113:13<br><b>reiterate (3)</b><br>97:18 100:13 101:9<br><b>relate (1)</b><br>61:15<br><b>related (4)</b><br>53:24 62:7 100:20<br>121:15<br><b>relates (3)</b><br>7:23 96:3 97:20<br><b>relating (1)</b><br>61:18<br><b>relation (1)</b><br>110:22<br><b>relevancy (7)</b><br>54:7, 13, 25 70:15<br>71:14 96:7 98:23<br><b>relevant (1)</b><br>99:25<br><b>remains (1)</b><br>55:23<br><b>remember (14)</b><br>73:12 77:2 83:3<br>87:2 90:19, 22, 24<br>96:9 98:7, 20, 22<br>102:18 105:23, 25<br><b>remind (1)</b><br>101:13<br><b>repeatedly (1)</b><br>113:20<br><b>rephrase (8)</b><br>17:24 104:10, 11, 11<br>104:25 105:4, 16<br>106:14<br><b>rephrasing (1)</b><br>104:9<br><b>replaced (2)</b><br>78:8, 11<br><b>report (1)</b> | 74:16<br><b>Reporter (3)</b><br>1:21 106:4 121:5<br><b>representative (1)</b><br>39:4<br><b>represents (3)</b><br>6:6 14:2 68:24<br><b>requests (4)</b><br>78:18, 24 93:10, 13<br><b>required (1)</b><br>102:15<br><b>requirements (1)</b><br>22:7<br><b>research (3)</b><br>111:2, 10, 11<br><b>residential (4)</b><br>15:6 26:10 60:25<br>61:5<br><b>resigned (2)</b><br>78:7, 10<br><b>resolved (1)</b><br>90:22<br><b>Resorts (4)</b><br>57:15, 19, 20 58:2<br><b>respect (2)</b><br>65:21 113:15<br><b>respond (1)</b><br>88:3<br><b>respondent (1)</b><br>65:4<br><b>response (1)</b><br>116:23<br><b>responsibilities...</b><br>7:16 10:4, 8 62:19<br><b>responsible (2)</b><br>7:18, 19<br><b>rest (1)</b><br>24:12<br><b>restate (1)</b><br>73:10<br><b>revenue (1)</b><br>24:8<br><b>revenues (2)</b><br>19:12 21:3<br><b>review (9)</b><br>25:5 63:25 64:2<br>76:23 77:3, 16, 19<br>78:23 86:4<br><b>reviewed (5)</b><br>12:21 77:12, 20, 22<br>77:24<br><b>reviewing (1)</b> | 77:5<br><b>rich (4)</b><br>39:9 40:8, 16 41:12<br><b>Rico (5)</b><br>60:9 96:15 107:19<br>108:8 113:15<br><b>right (14)</b><br>26:16 29:14, 21<br>33:24 41:3 51:12<br>51:20 93:3 97:8<br>98:9 107:16 109:7<br>109:23 115:6<br><b>rightfully (1)</b><br>72:20<br><b>rights (4)</b><br>11:22 83:25 89:6<br>92:12<br><b>rigorous (1)</b><br>22:7<br><b>ripoff (1)</b><br>68:25<br><b>RMR (1)</b><br>121:23<br><b>Rod (3)</b><br>2:16, 21 121:13<br><b>role (1)</b><br>62:15<br><b>room (2)</b><br>29:3 88:19<br><b>ruled (1)</b><br>102:13<br><b>run (4)</b><br>9:15, 19 22:12 63:5<br><b>running (2)</b><br>30:6 31:9<br><b>runs (3)</b><br>9:8 31:10 55:6<br><hr/> <b>S</b> <hr/> <b>S (3)</b><br>2:2 4:2 102:4<br><b>sale (1)</b><br>31:25<br><b>sales (15)</b><br>19:19 21:5, 11, 19<br>21:20, 23 22:8, 14<br>22:19 23:3, 16<br>42:23 58:7 62:3<br>70:3<br><b>Salto (2)</b><br>2:12 78:14<br><b>salto@hugheshu...</b> |
|---|--|--|--|

|  |   |  |   |
|--|---|--|---|
| <p>2:14<br/> <b>sample</b> (1)<br/> 39:4<br/> <b>San</b> (6)<br/> 94:18 97:12, 13<br/> 100:6, 15, 25<br/> <b>sanctioned</b> (1)<br/> 104:18<br/> <b>sanctions</b> (2)<br/> 105:9, 19<br/> <b>sat</b> (2)<br/> 38:14 103:4<br/> <b>saw</b> (1)<br/> 82:18<br/> <b>says</b> (13)<br/> 13:21, 25 14:23<br/> 15:4 30:9 43:6, 8<br/> 44:18 53:9 68:14<br/> 69:20, 23 103:20<br/> <b>schedule</b> (1)<br/> 97:6<br/> <b>Schneiderman</b> (4)<br/> 99:12, 14, 15 103:12<br/> <b>school</b> (3)<br/> 98:8, 17 102:15<br/> <b>scope</b> (1)<br/> 6:9<br/> <b>Scotland</b> (1)<br/> 27:17<br/> <b>screen</b> (1)<br/> 67:13<br/> <b>se</b> (1)<br/> 92:11<br/> <b>seasons</b> (3)<br/> 16:16 31:2, 9<br/> <b>seats</b> (1)<br/> 70:19<br/> <b>second</b> (2)<br/> 5:18 65:16<br/> <b>see</b> (14)<br/> 11:3 13:19 14:18<br/> 14:22 43:2 58:13<br/> 59:15 68:20 69:9<br/> 79:20 85:6 111:10<br/> 114:17 117:10<br/> <b>seeking</b> (1)<br/> 55:17<br/> <b>seen</b> (5)<br/> 51:2, 11 66:15, 18<br/> 85:17<br/> <b>select</b> (1)<br/> 12:21</p> | <p><b>selective</b> (1)<br/> 89:3<br/> <b>sell</b> (4)<br/> 18:2 20:18, 22 32:4<br/> <b>seller</b> (4)<br/> 37:22, 24 38:11<br/> 55:25<br/> <b>selling</b> (1)<br/> 69:3<br/> <b>sending</b> (2)<br/> 11:2 63:5<br/> <b>senior</b> (1)<br/> 11:13<br/> <b>sentence</b> (3)<br/> 85:12 106:9, 19<br/> <b>separate</b> (4)<br/> 10:20 23:21 34:17<br/> 114:6<br/> <b>series</b> (5)<br/> 29:14 32:15 35:4<br/> 46:23 67:12<br/> <b>serious</b> (3)<br/> 95:6, 23, 24<br/> <b>seriously</b> (2)<br/> 88:11 95:8<br/> <b>Serta</b> (1)<br/> 35:7<br/> <b>Seruga</b> (1)<br/> 74:19<br/> <b>Service</b> (2)<br/> 4:6 13:8<br/> <b>services</b> (18)<br/> 15:6, 7, 9, 12 16:13<br/> 18:3 19:14 21:9<br/> 23:17 26:2 29:7<br/> 61:16 63:18 67:19<br/> 67:22 83:4 89:11<br/> 113:11<br/> <b>set</b> (3)<br/> 80:19 121:8, 19<br/> <b>shade</b> (1)<br/> 49:12<br/> <b>shades</b> (1)<br/> 58:16<br/> <b>Share</b> (1)<br/> 50:15<br/> <b>shirts</b> (6)<br/> 17:14 32:18, 18, 19<br/> 33:9, 11<br/> <b>shops</b> (1)<br/> 33:18<br/> <b>short</b> (1)</p> | <p>107:7<br/> <b>shots</b> (1)<br/> 67:13<br/> <b>show</b> (10)<br/> 16:15 30:23 31:7, 8<br/> 31:12, 16 45:2<br/> 80:24 87:8 90:12<br/> <b>showing</b> (1)<br/> 91:4<br/> <b>shown</b> (1)<br/> 91:8<br/> <b>shows</b> (10)<br/> 16:14 29:14 30:15<br/> 30:16 57:6, 16<br/> 58:19, 24 59:9, 21<br/> <b>side</b> (7)<br/> 8:9 15:22, 23 26:24<br/> 27:19 28:3 54:9<br/> <b>sign</b> (1)<br/> 52:14<br/> <b>Signature</b> (2)<br/> 32:21, 22<br/> <b>signed</b> (1)<br/> 38:15<br/> <b>significance</b> (1)<br/> 96:23<br/> <b>signing</b> (2)<br/> 38:9, 12<br/> <b>similar</b> (5)<br/> 46:3, 8 49:8 59:4<br/> 98:10<br/> <b>Simple</b> (1)<br/> 105:4<br/> <b>simply</b> (1)<br/> 80:4<br/> <b>Single-page</b> (4)<br/> 4:5, 15 13:7 64:14<br/> <b>Sir</b> (1)<br/> 102:12<br/> <b>sit</b> (6)<br/> 53:8 75:2 78:19<br/> 89:16 93:22 115:9<br/> <b>sits</b> (1)<br/> 53:8<br/> <b>sitting</b> (6)<br/> 79:17 88:19 89:22<br/> 104:2 106:11, 23<br/> <b>situation</b> (2)<br/> 44:21 85:22<br/> <b>situations</b> (1)<br/> 83:23<br/> <b>sizable</b> (1)</p> | <p>33:20<br/> <b>skills</b> (2)<br/> 31:15, 15<br/> <b>slightly</b> (1)<br/> 97:5<br/> <b>Small</b> (1)<br/> 45:20<br/> <b>snapshot</b> (6)<br/> 56:18 57:7, 17<br/> 58:20, 24 59:11<br/> <b>so-called</b> (2)<br/> 79:23 111:16<br/> <b>social</b> (3)<br/> 21:17 23:8 68:3<br/> <b>software</b> (1)<br/> 89:11<br/> <b>Soho</b> (1)<br/> 27:25<br/> <b>sold</b> (8)<br/> 31:25 32:2 33:10<br/> 33:14 34:9 35:7<br/> 37:25 56:2<br/> <b>sole</b> (1)<br/> 109:13<br/> <b>solely</b> (1)<br/> 10:18<br/> <b>somebody</b> (1)<br/> 86:3<br/> <b>son</b> (1)<br/> 11:19<br/> <b>sorry</b> (8)<br/> 17:6 54:17 56:13<br/> 79:6 84:11 86:22<br/> 101:15 103:22<br/> <b>sort</b> (94)<br/> 8:6 10:10, 14 11:7<br/> 11:19, 24 12:10, 12<br/> 12:15 14:9 17:4<br/> 18:7, 17, 24 19:20<br/> 22:5, 11, 23 23:2<br/> 23:21 24:6, 17<br/> 25:8, 10, 19 28:21<br/> 31:11, 16 33:2<br/> 35:13 36:20 37:3<br/> 37:10 40:9, 10, 16<br/> 41:4, 5, 17, 21 43:3<br/> 43:9 46:8, 23<br/> 47:19 50:8 52:4, 6<br/> 52:14, 15, 22 53:2<br/> 53:10, 14, 18, 20, 23<br/> 54:3, 18 55:6, 12<br/> 55:24 56:18, 23</p> |
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|   |  |  |   |
|---|--|--|---|
| 58:4, 9, 10, 10, 14<br>58:16 59:16 60:6<br>60:12, 14, 18 61:21<br>62:8, 23 63:10, 12<br>64:2 66:13 68:6<br>70:6 81:24 84:6<br>84:15, 25 85:9<br>86:10 92:11 111:2<br>115:9 117:14<br><b>sound (1)</b><br>89:12<br><b>sounds (1)</b><br>84:13<br><b>soup (1)</b><br>8:6<br><b>Southern (1)</b><br>95:13<br><b>speaking (3)</b><br>36:8 62:9 113:20<br><b>speaks (1)</b><br>69:10<br><b>specific (3)</b><br>77:10 85:20 91:19<br><b>specifically (3)</b><br>80:16 83:7 84:4<br><b>speech (2)</b><br>113:2, 4<br><b>speeches (1)</b><br>69:7<br><b>spent (3)</b><br>23:15 24:22 25:16<br><b>spoke (2)</b><br>12:22 31:19<br><b>standard (2)</b><br>5:22 103:4<br><b>standing (3)</b><br>100:21, 23 101:12<br><b>standpoint (1)</b><br>25:7<br><b>stands (2)</b><br>40:23 50:2<br><b>Star (1)</b><br>41:12<br><b>start (1)</b><br>5:12<br><b>started (7)</b><br>7:10 8:21 14:15, 16<br>15:18 75:17 91:10<br><b>starting (1)</b><br>55:17<br><b>state (11)</b><br>1:22 12:23 90:10 | 99:17, 23 102:10<br>113:14 120:3<br>121:2, 6, 24<br><b>states (8)</b><br>1:2 13:17, 20 19:15<br>20:9 31:5 40:13<br>42:24<br><b>statute (3)</b><br>96:15 107:19 108:8<br><b>steaks (2)</b><br>17:15 18:17<br><b>step (1)</b><br>65:13<br><b>steps (3)</b><br>11:21 63:3 64:11<br><b>stipulate (1)</b><br>5:14<br><b>stipulated (3)</b><br>4:3 5:17 6:2<br><b>stipulating (1)</b><br>6:13<br><b>stipulations (1)</b><br>5:12<br><b>stop (1)</b><br>104:23<br><b>stops (1)</b><br>116:4<br><b>stories (3)</b><br>47:24 50:17, 21<br><b>straight (1)</b><br>68:24<br><b>strategies (4)</b><br>45:18 50:15, 19<br>70:5<br><b>street (3)</b><br>26:16, 19 41:3<br><b>strength (4)</b><br>41:22 52:4, 14<br>53:16<br><b>strict (1)</b><br>23:10<br><b>Strike (1)</b><br>17:24<br><b>studies (1)</b><br>48:5<br><b>studying (1)</b><br>98:7<br><b>style (8)</b><br>50:4, 25 65:10, 17<br>66:4, 5 68:16 70:4<br><b>styling (1)</b><br>56:24 | <b>sub-businesses (1)</b><br>16:11<br><b>subject (3)</b><br>22:8 43:10 53:21<br><b>submit (1)</b><br>86:17<br><b>submitted (1)</b><br>87:21<br><b>subpoena (1)</b><br>115:25<br><b>Subscribed (1)</b><br>119:14<br><b>subsection (1)</b><br>108:15<br><b>substance (1)</b><br>97:24<br><b>subtitle (1)</b><br>49:11<br><b>succeed (10)</b><br>36:21, 22 42:2, 4<br>43:12, 12 44:2<br>46:25 53:25, 25<br><b>succeeded (3)</b><br>48:2, 7 50:18<br><b>Success (4)</b><br>46:15 47:10 48:4<br>48:12<br><b>successes (1)</b><br>55:22<br><b>successful (10)</b><br>24:17 32:14, 14<br>37:15, 20 50:17<br>56:2 70:8 90:25<br>111:14<br><b>sufficient (1)</b><br>117:13<br><b>suit (1)</b><br>33:2<br><b>suits (4)</b><br>17:14 32:19, 23<br>33:5<br><b>summary (1)</b><br>107:4<br><b>supervising (1)</b><br>78:22<br><b>supposed (1)</b><br>38:13<br><b>Supreme (2)</b><br>102:4, 10<br><b>sure (29)</b><br>7:17 8:20 9:20<br>10:9 17:11, 20 | 25:6, 12 26:5, 25<br>30:24 33:7 35:15<br>36:4 61:9 69:19<br>72:4 73:23 76:2<br>76:11 80:7, 9 84:8<br>84:18 85:4, 10, 20<br>92:15 107:8<br><b>surrounded (2)</b><br>47:18 49:10<br><b>Survival (1)</b><br>51:7<br><b>Surviving (2)</b><br>49:18, 23<br><b>sweatshirts (1)</b><br>33:12<br><b>switch (1)</b><br>70:19<br><b>Switching (1)</b><br>62:14<br><b>sworn (3)</b><br>5:9 119:14 121:9<br><b>synonymous (4)</b><br>40:10 48:23 52:7<br>65:18<br><b>system (1)</b><br>75:9<br><b>systems (1)</b><br>75:4 |
| <hr/>   |  |  |   |
| <b>T</b>  |  |  |   |
| <hr/>   |  |  |   |
| <b>T (5)</b>  |  |  |   |
| 3:2 4:2 120:2<br>121:1, 1   |  |  |   |
| <b>table (1)</b>  |  |  |   |
| 54:10   |  |  |   |
| <b>Taj (5)</b>  |  |  |   |
| 28:6 57:8, 23 58:5<br>58:11   |  |  |   |
| <b>take (12)</b>  |  |  |   |
| 38:23 41:2 61:7<br>63:3 65:13 67:9<br>78:4 83:23 88:9<br>95:8 98:17 107:7   |  |  |   |
| <b>taken (4)</b>  |  |  |   |
| 1:17 62:20 89:17<br>103:7   |  |  |   |
| <b>talk (3)</b>   |  |  |   |
| 19:16 36:2 100:9  |  |  |   |
| <b>talked (3)</b>   |  |  |   |
| 45:23 57:11 61:13   |  |  |   |
| <b>talking (13)</b>   |  |  |   |
| 17:17 18:16 19:9  |  |  |   |

|   |  |   |   |
|---|--|---|---|
| <p>19:22 20:4 23:22<br/>24:3 27:6 37:12<br/>99:7 112:4,5<br/>113:14<br/><b>task (1)</b><br/>8:22<br/><b>tasting (1)</b><br/>29:3<br/><b>tax (2)</b><br/>35:24,25<br/><b>tea (4)</b><br/>17:19 18:16 31:23<br/>32:7<br/><b>team (6)</b><br/>9:6 10:11,12,13<br/>11:9 23:12<br/><b>techniques (1)</b><br/>103:15<br/><b>technology-base...</b><br/>23:7<br/><b>Teen (1)</b><br/>30:21<br/><b>television (4)</b><br/>16:14,15 23:4<br/>29:14<br/><b>tell (13)</b><br/>9:18 10:7 12:18<br/>13:23 30:22 54:3<br/>59:22 83:16 85:14<br/>87:14 88:8,9<br/>107:5<br/><b>tens (3)</b><br/>23:23 24:4,22<br/><b>term (2)</b><br/>27:4 81:9<br/><b>terminated (1)</b><br/>76:14<br/><b>terms (6)</b><br/>11:24 24:5 62:16<br/>80:13 81:14 96:7<br/><b>test (1)</b><br/>80:22<br/><b>testified (4)</b><br/>5:10 62:15 75:3<br/>108:3<br/><b>testify (1)</b><br/>115:4<br/><b>testifying (1)</b><br/>6:4<br/><b>testimony (7)</b><br/>6:5 12:20 73:8<br/>74:3 76:21 102:25</p> | <p>121:10<br/><b>testing (1)</b><br/>81:14<br/><b>thank (6)</b><br/>6:15 90:17 100:2<br/>101:18 102:2<br/>119:2<br/><b>Thanks (1)</b><br/>70:25<br/><b>Thanksgiving (3)</b><br/>104:2 106:11,24<br/><b>thick (18)</b><br/>40:8,15,21 41:18<br/>42:12,22 43:22<br/>45:25 46:21 47:17<br/>48:17 49:8,22<br/>50:22 51:11 59:7<br/>60:14,19<br/><b>thin (1)</b><br/>99:14<br/><b>thing (2)</b><br/>48:16 96:23<br/><b>things (4)</b><br/>23:5,9 63:22 72:18<br/><b>think (43)</b><br/>17:2 26:20 27:13<br/>28:18 32:8,20<br/>34:16 35:12 37:19<br/>37:20 40:11 42:17<br/>43:19 44:5,12,24<br/>45:10 46:13,19<br/>48:4 51:25 55:6<br/>59:17 62:13 76:20<br/>79:3 84:5,6,10,12<br/>85:12 87:15 99:7<br/>109:9 111:20<br/>112:2,10 115:7<br/>116:4,5,7 117:15<br/>118:5<br/><b>third (4)</b><br/>20:17 22:4 26:19<br/>34:10<br/><b>thought (2)</b><br/>81:12 82:19<br/><b>thousand (1)</b><br/>38:15<br/><b>thousands (1)</b><br/>82:24<br/><b>thread (1)</b><br/>39:6<br/><b>threatening (3)</b><br/>105:9,19,21</p> | <p><b>three (4)</b><br/>7:12 9:22 10:2<br/>16:18<br/><b>Three-page (2)</b><br/>4:18 67:2<br/><b>throw (1)</b><br/>88:15<br/><b>Thursday (1)</b><br/>5:4<br/><b>tie (1)</b><br/>33:2<br/><b>ties (4)</b><br/>17:14 32:18,19,24<br/><b>time (10)</b><br/>14:19 21:2,2 38:23<br/>62:4,5 67:10<br/>77:23 110:8 119:5<br/><b>times (6)</b><br/>37:22,24 38:11<br/>55:25 86:6 92:2<br/><b>tiny (1)</b><br/>99:18<br/><b>tips (1)</b><br/>44:2<br/><b>title (30)</b><br/>37:10 39:11,16,20<br/>41:8 42:6,15<br/>43:16,19 44:4,9<br/>44:14,22 45:7,16<br/>45:22 46:10,13,18<br/>47:5,14 48:8,15<br/>48:20 49:2,7,15<br/>49:23 50:25 51:3<br/><b>titles (1)</b><br/>18:12<br/><b>today (9)</b><br/>5:15 6:4 7:23 8:24<br/>15:16 33:14 50:10<br/>93:22 94:3<br/><b>today's (1)</b><br/>12:19<br/><b>told (1)</b><br/>38:10<br/><b>ton (1)</b><br/>8:23<br/><b>tools (2)</b><br/>93:7,18<br/><b>top (15)</b><br/>22:17 43:22 44:17<br/>49:6,19,24 50:6<br/>50:14,23 51:12<br/>52:23 57:15 59:5</p> | <p>59:6 65:8<br/><b>topic (1)</b><br/>53:21<br/><b>tourist (2)</b><br/>40:25 52:18<br/><b>Tower (22)</b><br/>13:4 19:6 26:17,18<br/>27:23 28:8 33:10<br/>33:16 38:12 40:20<br/>46:7 50:7 51:17<br/>52:9,12 56:21<br/>59:21,23 60:2,6,9<br/>66:2<br/><b>trade (1)</b><br/>69:11<br/><b>traded (1)</b><br/>57:21<br/><b>trademark (37)</b><br/>1:2,2 5:23,25 8:4<br/>10:21 11:4,15,15<br/>11:18,20 12:7<br/>13:17 15:10,14<br/>17:25 45:17 60:3<br/>62:16 63:11 64:6<br/>64:9 65:2 71:9,10<br/>71:21 75:20 81:10<br/>81:14,16 82:8<br/>84:21 87:12 92:12<br/>110:22 111:7<br/>113:12<br/><b>trademarks (3)</b><br/>8:6,19 63:19<br/><b>trades (1)</b><br/>98:11<br/><b>traditional (1)</b><br/>23:3<br/><b>traditionally (2)</b><br/>24:13,19<br/><b>transactional (4)</b><br/>8:12,15,17,18<br/><b>transactions (2)</b><br/>7:20 8:22<br/><b>TRANSCRIPT (1)</b><br/>1:12<br/><b>tremendous (1)</b><br/>29:4<br/><b>trial (7)</b><br/>1:2 5:23 74:16<br/>96:20 107:5<br/>109:22 110:2<br/><b>tried (3)</b><br/>32:4 89:4 92:9</p> |
|---|--|---|---|

|   |  |  |  |
|---|--|--|--|
| <p><b>trim (2)</b><br/>53:6 58:15</p> <p><b>true (9)</b><br/>73:6, 25 75:7<br/>102:12 103:16<br/>111:18, 20 114:6<br/>121:9</p> <p><b>trump (391)</b><br/>1:4, 7 6:23, 24 7:4<br/>7:8, 25 8:2 9:12<br/>9:14, 15, 15, 23<br/>10:5 11:18 12:2, 5<br/>12:11, 13, 23 13:2<br/>13:3, 18, 18 14:4, 5<br/>14:16 15:8, 10, 13<br/>15:17 16:9, 12, 13<br/>16:17, 20, 20, 22, 24<br/>17:10, 12, 18, 19<br/>18:4, 5, 6, 8, 11, 12<br/>18:13, 13, 16, 17, 17<br/>18:20, 23, 25 19:3<br/>19:4, 6, 6, 7, 7, 8, 14<br/>21:10 22:2 23:18<br/>25:25, 25 26:9, 14<br/>26:15, 17, 18, 18, 20<br/>26:20, 21, 23 27:2<br/>27:7, 9, 10, 15, 16<br/>27:22, 23, 24, 24<br/>28:2, 2, 5, 6, 7, 12<br/>28:14, 15, 17, 18, 20<br/>28:22, 23 29:2, 3, 5<br/>29:8, 12, 15, 18, 20<br/>29:21, 22, 24, 25<br/>30:4, 6, 10, 14, 18<br/>31:6, 21, 22, 23, 24<br/>32:2, 11, 12, 13, 20<br/>32:21, 22 33:9, 10<br/>33:11, 11, 12, 15, 16<br/>33:17, 23 34:6, 8<br/>34:11, 14, 22 35:2<br/>35:3, 6, 9, 9, 14, 18<br/>35:19, 20, 21, 22<br/>36:2, 5, 10 37:9, 10<br/>38:12 39:6, 8, 8, 10<br/>39:11, 16, 21 40:7<br/>40:11, 19 41:9, 11<br/>41:14, 16, 19 42:9<br/>42:18, 20, 20 43:10<br/>43:21 44:7, 8, 10<br/>44:15, 17, 18, 22, 24<br/>45:12, 18, 21, 24<br/>46:7, 13, 16, 19, 25</p> | <p>47:6, 8, 10, 14, 19<br/>47:24 48:9, 11, 13<br/>48:14, 19, 22 49:5<br/>49:9, 18, 19, 20, 23<br/>50:7, 8, 9, 13, 21<br/>51:6, 7, 14, 17, 21<br/>52:9, 12 53:8, 9<br/>54:2 56:11, 19, 19<br/>56:21 57:8, 9, 14<br/>57:18, 20, 23, 24, 25<br/>58:3, 5, 21, 21, 23<br/>58:25 59:2, 3, 5, 5<br/>59:11, 12, 13, 14, 16<br/>59:18, 21, 22 60:2<br/>60:4, 5, 5, 8, 10, 11<br/>60:23, 25 61:3, 4<br/>61:17, 18, 20, 23, 25<br/>62:4, 10, 21, 23<br/>64:6, 22 65:7, 8, 11<br/>65:12, 14, 15, 21<br/>66:2, 7, 18 67:13<br/>67:19, 22 68:7, 8<br/>68:10, 11, 13, 15, 17<br/>68:22 69:7, 14, 20<br/>69:21 71:24 72:14<br/>72:18 73:3 74:22<br/>75:11, 15, 21 78:17<br/>79:15, 22 80:13<br/>81:4, 5 82:20 83:6<br/>83:11, 18, 18, 19<br/>84:2, 2, 4 85:13, 15<br/>85:16, 18, 24, 25<br/>86:4, 8, 9, 21 89:20<br/>92:3 94:12, 18<br/>95:7, 11, 17, 18<br/>97:15, 21 99:2, 17<br/>100:5, 15, 19<br/>101:23 102:9, 13<br/>102:18 103:12<br/>106:21 107:11, 11<br/>107:16, 23, 23<br/>108:2, 2, 8, 25<br/>109:16 110:5<br/>111:13, 24 112:5, 6<br/>112:6, 15 113:10<br/>114:3, 7, 10 115:4<br/>115:14, 22 118:6<br/>121:14</p> <p><b>Trump's (14)</b><br/>9:24 11:19 31:13<br/>36:9 40:3 41:23<br/>61:14, 24 65:23, 25</p> | <p>72:7 82:8 103:14<br/>109:13</p> <p><b>Trumps (3)</b><br/>36:7 84:22, 23</p> <p><b>Trumpyourcompet...</b><br/>67:14</p> <p><b>try (5)</b><br/>104:9 114:23 115:9<br/>117:3, 10</p> <p><b>trying (6)</b><br/>17:2 63:12 69:11<br/>85:9, 10 92:13</p> <p><b>turn (8)</b><br/>41:7 42:5 45:5<br/>57:4, 13 59:8, 20<br/>69:12</p> <p><b>Turnbury (1)</b><br/>27:17</p> <p><b>Turned (2)</b><br/>47:9 48:3</p> <p><b>turning (1)</b><br/>57:14</p> <p><b>TV (2)</b><br/>30:15, 16</p> <p><b>two (10)</b><br/>16:18 44:12 46:17<br/>47:13 50:11 82:5<br/>88:19 106:9 109:6<br/>114:6</p> <p><b>two-minute (1)</b><br/>61:8</p> <p><b>two-sentence (1)</b><br/>103:24</p> <p><b>twofold (1)</b><br/>10:10</p> <p><b>type (4)</b><br/>8:13 50:3 55:4<br/>65:10</p> <p><b>typed (2)</b><br/>79:23, 25</p> <p><b>types (5)</b><br/>8:10, 17 23:7 36:17<br/>62:19</p> <hr/> <p style="text-align: center;"><b>U</b></p> <hr/> <p><b>U. S (12)</b><br/>5:24 11:12 19:19<br/>20:7 23:19 24:2, 5<br/>24:11, 20 32:2<br/>108:17, 19</p> <p><b>U. S.-based (2)</b><br/>24:14, 19</p> | <p><b>U. S. C (2)</b><br/>96:4 108:15</p> <p><b>ultimately (3)</b><br/>25:11, 13 107:4</p> <p><b>unaware (2)</b><br/>93:22, 25</p> <p><b>unclean (4)</b><br/>98:5, 9, 12, 19</p> <p><b>Underhill (101)</b><br/>2:16, 21 3:12 5:17<br/>6:2, 6, 13 54:7, 13<br/>54:17, 25 61:10<br/>70:1, 14, 16, 22<br/>71:1 72:1 73:1, 9<br/>74:1, 5 75:1 76:1<br/>77:1 78:1 79:1<br/>80:1 81:1 82:1<br/>83:1 84:1 85:1<br/>86:1 87:1, 5, 10, 24<br/>88:1 89:1 90:1, 11<br/>90:17, 18 91:1, 3, 6<br/>92:1 93:1 94:1, 11<br/>95:1 96:1, 8 97:1<br/>98:1, 3 99:1 100:1<br/>100:18 101:1, 5, 12<br/>101:16, 18, 20<br/>102:1 103:1 104:1<br/>104:6, 12, 24 105:1<br/>105:8 106:1, 13<br/>107:1, 8, 10 108:1<br/>109:1 110:1 111:1<br/>112:1, 23 113:1, 2<br/>113:17, 19 114:1, 2<br/>114:16 115:1, 2<br/>116:1, 17 117:5, 20<br/>117:24 118:7<br/>121:13</p> <p><b>Underhill's (1)</b><br/>106:5</p> <p><b>understand (21)</b><br/>71:23 72:16 80:7, 9<br/>81:9, 15 83:10<br/>84:8, 18 92:16<br/>93:23 95:9 96:9<br/>109:12, 15, 22<br/>110:7, 10, 16<br/>111:22 116:8</p> <p><b>understanding (8)</b><br/>50:16 67:21, 24<br/>77:25 81:6, 17<br/>96:2 105:2</p> <p><b>United (7)</b></p> |
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|  |  |   |  |
|--|--|---|--|
| 1:2 13:16 19:15<br>20:9 31:5 40:13<br>42:24<br><b>units (2)</b><br>20:22 21:15<br><b>Universe (4)</b><br>16:19 29:16 30:20<br>30:20<br><b>universities (1)</b><br>55:10<br><b>university (16)</b><br>16:12 61:20 69:8<br>94:18 97:22 99:2<br>99:17, 19 100:5, 15<br>100:20 107:23<br>108:3 111:16<br>114:3, 7<br><b>unlicensed (1)</b><br>99:22<br><b>unnecessarily (1)</b><br>117:15<br><b>upper (2)</b><br>26:23 28:3<br><b>upper-left (2)</b><br>57:10 59:17<br><b>upwards (1)</b><br>20:5<br><b>USA (2)</b><br>30:20, 21<br><b>usage (3)</b><br>83:10 91:17 92:23<br><b>use (43)</b><br>13:20 16:24 18:4<br>18:18 20:13 22:6<br>24:9 26:8, 14 27:2<br>27:14 32:10 34:5<br>34:22 37:9 39:6<br>41:9 44:13 51:21<br>55:14 56:10 57:24<br>60:10, 11 63:4, 18<br>70:2 82:11 83:14<br>83:17 84:23 86:21<br>89:12 92:9 94:2, 4<br>94:8 97:21 108:25<br>111:24 112:7, 10<br>113:10<br><b>uses (2)</b><br>29:24 94:5<br><b>usually (5)</b><br>27:8 36:11 37:5, 5<br>65:14 | <hr/> <b>V</b> <hr/> <b>v (2)</b><br>1:6 102:9<br><b>Vaguely (1)</b><br>90:21<br><b>valuable (1)</b><br>88:13<br><b>variety (2)</b><br>17:13 26:2<br><b>various (8)</b><br>12:10 28:15 35:18<br>46:4 53:22 56:11<br>57:22 66:19<br><b>Vegas (5)</b><br>20:22 21:23 27:24<br>58:25 59:5<br><b>verb (6)</b><br>83:11 84:4, 16, 24<br>85:13, 22<br><b>version (1)</b><br>45:11<br><b>versus (5)</b><br>95:10 97:15 106:21<br>107:16 108:7<br><b>vice-president (2)</b><br>7:5, 13<br><b>vice-presidents...</b><br>10:3<br><b>view (1)</b><br>98:6<br><b>vineyards (2)</b><br>28:11, 13<br><b>violation (2)</b><br>92:12 96:3<br><b>Virginia (1)</b><br>28:17<br><b>virtually (3)</b><br>7:19 8:10 50:23<br><b>vodka (5)</b><br>17:15 18:17 31:24<br>32:2, 7 | 116:2<br><b>walk (2)</b><br>52:19 53:9<br><b>Wall (1)</b><br>26:15<br><b>want (17)</b><br>5:11 6:3 54:14<br>56:4 63:15 70:12<br>70:16 75:5 79:7<br>80:23 87:8, 15<br>104:22 114:20<br>116:11, 21 117:9<br><b>wanted (2)</b><br>104:3 106:12<br><b>wanting (1)</b><br>61:22<br><b>wants (1)</b><br>116:17<br><b>wasn't (2)</b><br>99:2 108:5<br><b>watch (1)</b><br>30:8<br><b>water (3)</b><br>17:15 31:22 32:7<br><b>waterfall (1)</b><br>53:4<br><b>way (32)</b><br>20:14 39:24 40:2, 6<br>41:21 42:21 45:13<br>46:3 48:12 49:5<br>52:13, 16 65:16, 21<br>65:24 66:10, 18<br>68:13, 17 77:2, 11<br>82:21 85:23 90:5<br>91:15 92:2, 10<br>94:13, 15, 23<br>102:20 121:17<br><b>ways (8)</b><br>37:3 44:12 46:17<br>47:13 63:16 91:14<br>91:23 98:14<br><b>We'll (1)</b><br>18:22<br><b>we're (2)</b><br>91:23 112:4<br><b>we've (7)</b><br>10:12, 12, 13, 18<br>45:23 51:2 113:11<br><b>website (13)</b><br>23:8 33:15 56:19<br>56:20 57:7, 18, 19<br>58:8, 15, 20 59:11 | 67:14 92:3<br><b>week (4)</b><br>38:3, 8, 12 100:10<br><b>weeks (2)</b><br>37:25 55:25<br><b>Weinberger (2)</b><br>77:14 78:6<br><b>well-known (4)</b><br>55:11, 24 65:25<br>69:6<br><b>went (6)</b><br>14:9, 20 42:12<br>53:19 74:23<br>106:25<br><b>weren't (1)</b><br>99:8<br><b>west (3)</b><br>26:24 28:3, 3<br><b>WHEREOF (1)</b><br>121:19<br><b>wide (1)</b><br>17:13<br><b>willing (3)</b><br>115:17, 22, 24<br><b>win (1)</b><br>43:13<br><b>window (1)</b><br>52:24<br><b>wine (5)</b><br>17:6 28:23 29:3<br>31:19 32:7<br><b>winery (7)</b><br>17:6, 7 28:16, 18, 18<br>28:20 29:5<br><b>wines (2)</b><br>28:10, 13<br><b>winning (1)</b><br>107:3<br><b>WIPO (1)</b><br>63:6<br><b>wire (4)</b><br>96:14 97:24 107:19<br>113:15<br><b>wish (3)</b><br>117:6, 7 120:5<br><b>witness (21)</b><br>3:5 54:14 61:7<br>70:17 87:7 91:5<br>104:8 109:13<br>110:2, 4 114:14, 19<br>116:10 117:9, 22<br>118:4, 8, 10 121:7 |
|--|--|---|--|



|   |  |   |   |
|---|--|---|---|
| 121:10, 19<br><b>word (13)</b><br>14:23 75:11 81:5<br>83:11 84:3, 23<br>85:18, 19 86:9, 21<br>89:10 96:19 99:19<br><b>words (3)</b><br>70:2 80:5 87:16<br><b>work (13)</b><br>6:22 8:14 10:14<br>11:10 12:13 20:16<br>20:24 25:3 40:19<br>63:2 82:25 114:21<br>115:12<br><b>worked (8)</b><br>6:24 8:23 20:15<br>24:24, 25 25:20<br>48:6 108:17<br><b>working (3)</b><br>54:2, 12 75:17<br><b>works (3)</b><br>54:4 92:19, 20<br><b>world (17)</b><br>11:12 26:18 27:14<br>33:3 35:8 36:22<br>40:12 42:25 46:6<br>47:21 52:8, 17<br>53:16 55:16 62:6<br>65:19 86:3<br><b>worldwide (7)</b><br>19:17, 25 23:18, 25<br>24:4 40:25 41:6<br><b>wouldn't (2)</b><br>73:19 78:22<br><b>wound (1)</b><br>38:13<br><b>wrapped (1)</b><br>52:10<br><b>writes (3)</b><br>36:9, 10, 11<br><b>written (5)</b><br>16:23 37:13 41:13<br>47:10 51:7<br><b>wrong (1)</b><br>111:20<br><br><b>X</b><br><br><b>X (4)</b><br>3:2, 2 4:2, 2<br><br><b>Y</b><br><br><b>yeah (28)</b> | 17:3, 7 21:11 22:23<br>23:24 25:22 26:12<br>28:14 30:4 34:8<br>35:25 38:7, 25<br>39:20 40:6 43:5, 7<br>47:22 53:23 55:18<br>55:21 79:10 81:7<br>81:11 91:5 98:11<br>99:10 115:15<br><b>year (5)</b><br>13:23 20:4 23:16<br>23:23 86:5<br><b>year-to-year (2)</b><br>19:25 86:10<br><b>years (17)</b><br>7:12 17:12 19:10<br>19:22 24:15 25:2<br>34:24 36:17 37:13<br>40:14 51:25 52:2<br>54:3 61:2 62:20<br>66:18 68:20<br><b>York (34)</b><br>1:19, 20, 22 2:7, 7<br>5:5, 5 13:3, 3<br>26:12 29:23 37:22<br>37:23 38:11 55:24<br>71:6 98:25 99:18<br>100:6, 16 101:2<br>102:10, 11 103:8<br>103:11 105:2<br>106:6 120:3, 4<br>121:2, 3, 6, 12, 24<br><br><b>Z</b><br><br><b>Zanker (1)</b><br>44:18<br><b>Zelnick (1)</b><br>76:18<br><br><b>0</b><br><br><b>01RA6011914 (1)</b><br>121:24<br><b>08/17/2018 (1)</b><br>121:25<br><br><b>1</b><br><br><b>1 (8)</b><br>4:5 13:6, 7, 13<br>14:22 57:3 68:14<br>70:13<br><b>1,495 (1)</b><br>103:13 | <b>1:00 (1)</b><br>38:13<br><b>10 (3)</b><br>24:25 54:3 61:2<br><b>10:08 (3)</b><br>1:14 5:6 121:10<br><b>100 (2)</b><br>50:14 92:2<br><b>10004 (1)</b><br>121:12<br><b>10004-1482 (1)</b><br>2:7<br><b>101 (1)</b><br>48:11<br><b>11:00 (1)</b><br>38:13<br><b>11:13 (1)</b><br>61:11<br><b>11:24 (1)</b><br>61:11<br><b>12 (3)</b><br>1:13 5:4 121:11<br><b>12:23 (1)</b><br>107:9<br><b>12:31 (1)</b><br>107:9<br><b>12:45 (1)</b><br>116:10<br><b>12:48 (1)</b><br>119:5<br><b>1238 (1)</b><br>2:18<br><b>13 (1)</b><br>4:5<br><b>14 (3)</b><br>16:16 30:25 31:9<br><b>15 (2)</b><br>16:23 61:2<br><b>15-16 (1)</b><br>27:13<br><b>16 (2)</b><br>4:7 13:9<br><b>17th (1)</b><br>121:20<br><b>18 (2)</b><br>96:4 108:15<br><b>1962 (1)</b><br>108:15<br><b>1962(c) (1)</b><br>96:4<br><b>1964 (3)</b><br>13:25 14:20 15:19 | <b>1999 (2)</b><br>4:7 13:9<br><br><b>2</b><br><br><b>2 (11)</b><br>4:9 38:16, 17, 21<br>41:7, 7 42:5 45:6<br>57:4, 10 66:15<br><b>20 (5)</b><br>16:23, 23 26:13<br>36:17 37:14<br><b>20-plus (1)</b><br>68:19<br><b>20-some-odd (1)</b><br>37:13<br><b>2005 (1)</b><br>75:15<br><b>2006 (2)</b><br>7:2 75:18<br><b>2015 (5)</b><br>1:13 5:4 119:15<br>121:11, 20<br><b>212.837.6000 (1)</b><br>2:8<br><b>212.837.6494 (1)</b><br>2:13<br><b>212.837.6847 (1)</b><br>2:10<br><b>26th (1)</b><br>53:8<br><br><b>3</b><br><br><b>3 (10)</b><br>4:12 42:5 56:6, 15<br>57:2, 3, 13 59:8<br>60:17, 20<br><b>3095214 (1)</b><br>74:21<br><b>31 (1)</b><br>13:25<br><b>35,000 (1)</b><br>103:14<br><b>37 (1)</b><br>15:7<br><b>38 (1)</b><br>4:9<br><br><b>4</b><br><br><b>4 (17)</b><br>3:15 4:15 38:14<br>64:13, 14, 20 65:6<br>66:9 68:13 69:12 |
|---|--|---|---|

|   |   |  |  |
|---|---|--|--|
| <p>79:3, 4, 7, 9, 11<br/>91:4, 18<br/><b>40 (1)</b><br/>26:15<br/><b>400 (1)</b><br/>20:5<br/><b>451463/2013 (1)</b><br/>102:11</p> <hr/> <p><b>5</b></p> <hr/> <p><b>5 (6)</b><br/>4:18 66:22 67:2<br/>68:14 70:13 75:15<br/><b>5,000 (1)</b><br/>103:13<br/><b>50 (1)</b><br/>37:24<br/><b>50-plus (1)</b><br/>55:25<br/><b>50% (1)</b><br/>16:19<br/><b>56 (1)</b><br/>4:12</p> <hr/> <p><b>6</b></p> <hr/> <p><b>6 (1)</b><br/>3:11<br/><b>619. 540. 0631 (1)</b><br/>2:20<br/><b>63rd (1)</b><br/>26:19<br/><b>64 (1)</b><br/>4:15<br/><b>65 (3)</b><br/>20:7 24:6, 10<br/><b>67 (1)</b><br/>4:18</p> <hr/> <p><b>7</b></p> <hr/> <p><b>70 (2)</b><br/>3:12 20:8<br/><b>70% (3)</b><br/>20:8 24:6, 11<br/><b>725 (1)</b><br/>13:3</p> <hr/> <p><b>8</b></p> <hr/> <p><b>9</b></p> <hr/> <p><b>90's (1)</b><br/>37:19<br/><b>91217618 (1)</b><br/>1:7</p> | <p><b>92 (1)</b><br/>37:19<br/><b>92036-1238 (1)</b><br/>2:19</p> |  |  |
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Int. Cl.: 37

Prior U.S. Cls.: 100, 103 and 106

Reg. No. 2,232,052

**United States Patent and Trademark Office**

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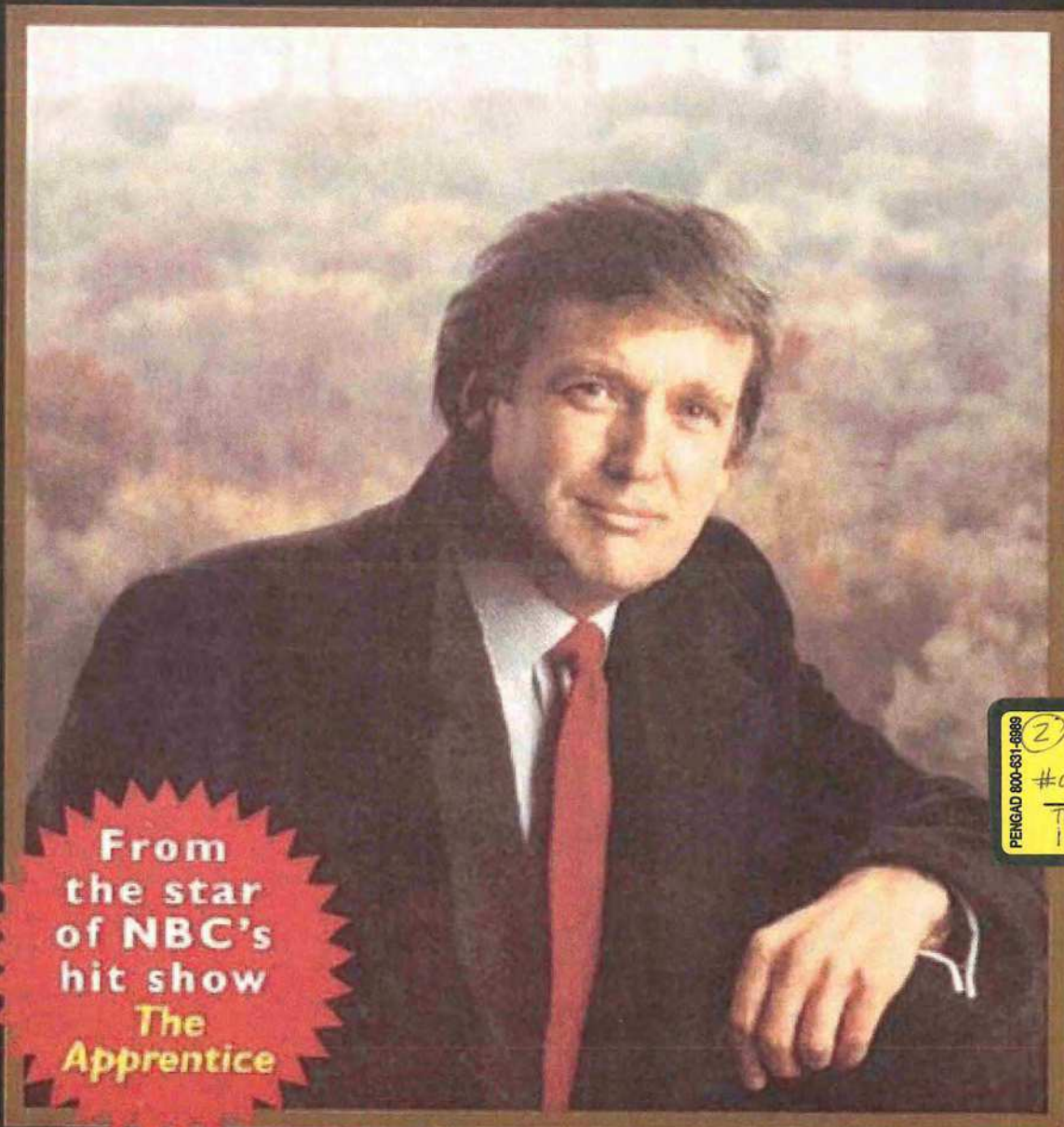
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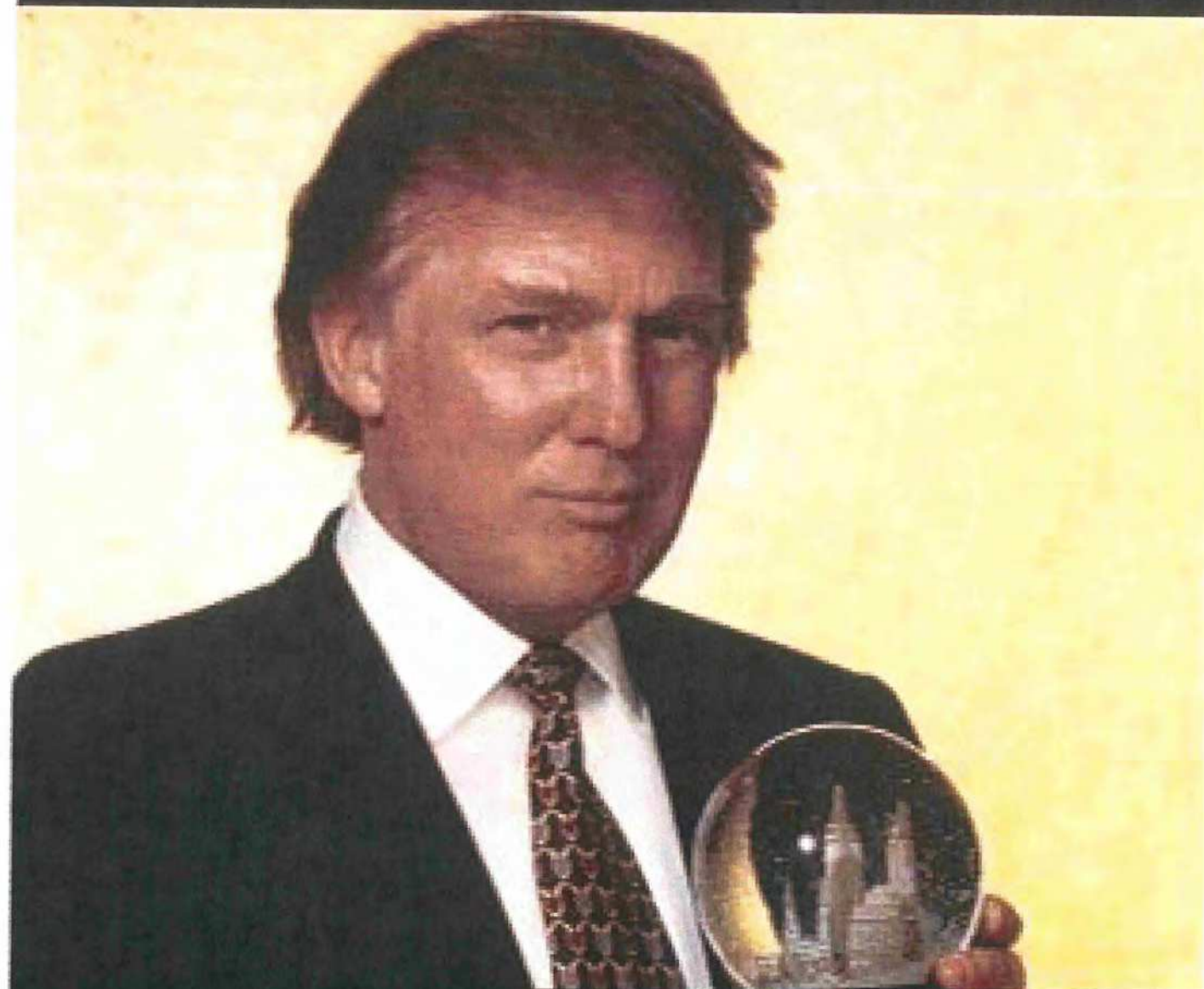
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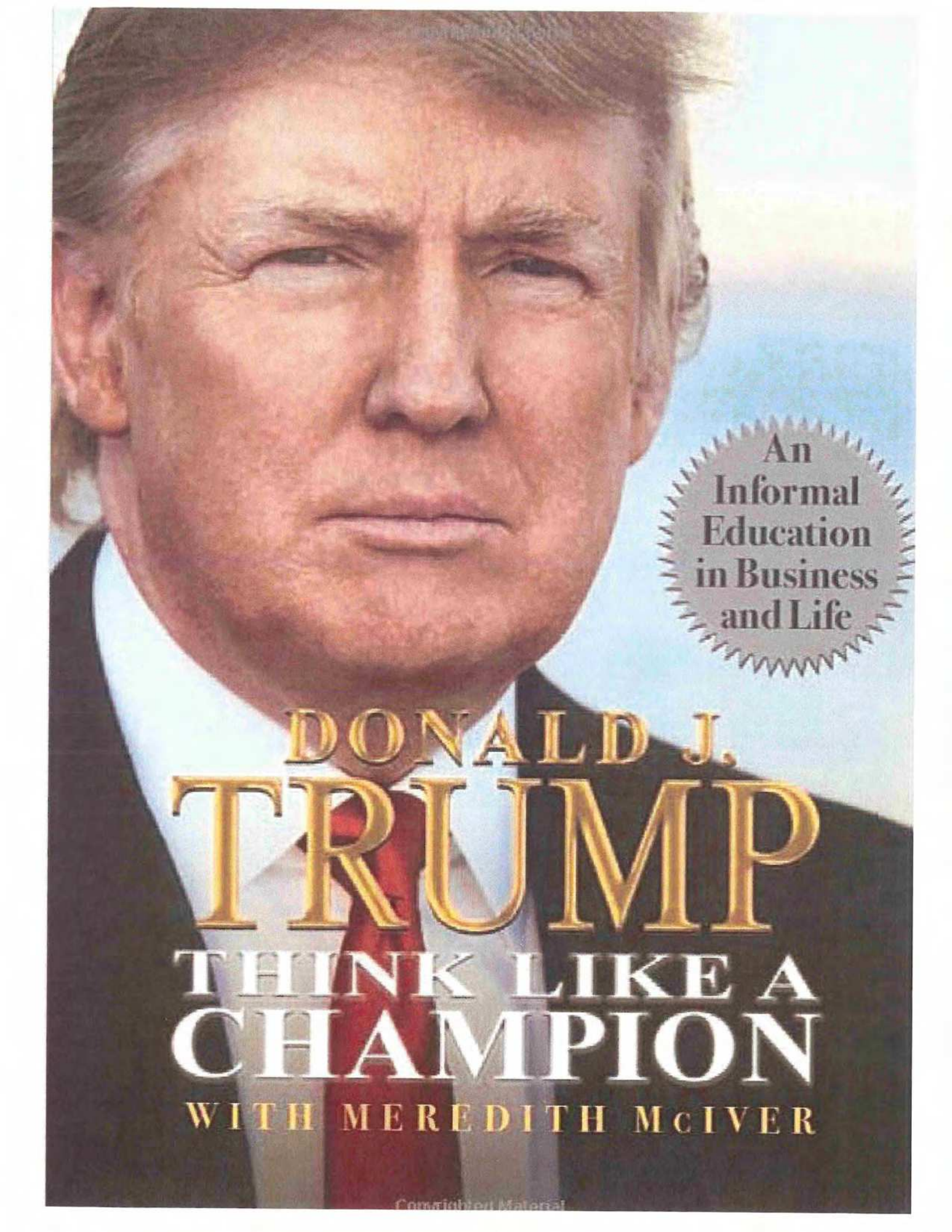
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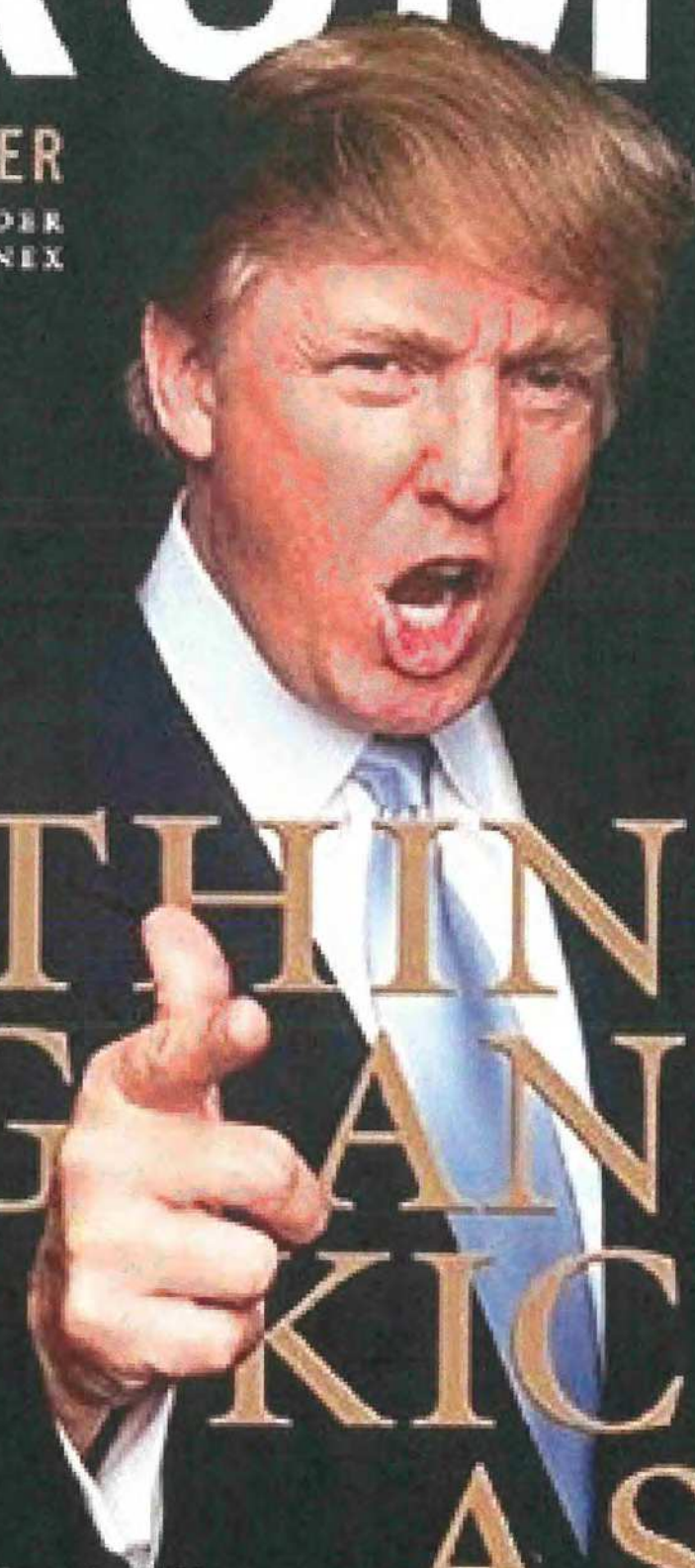
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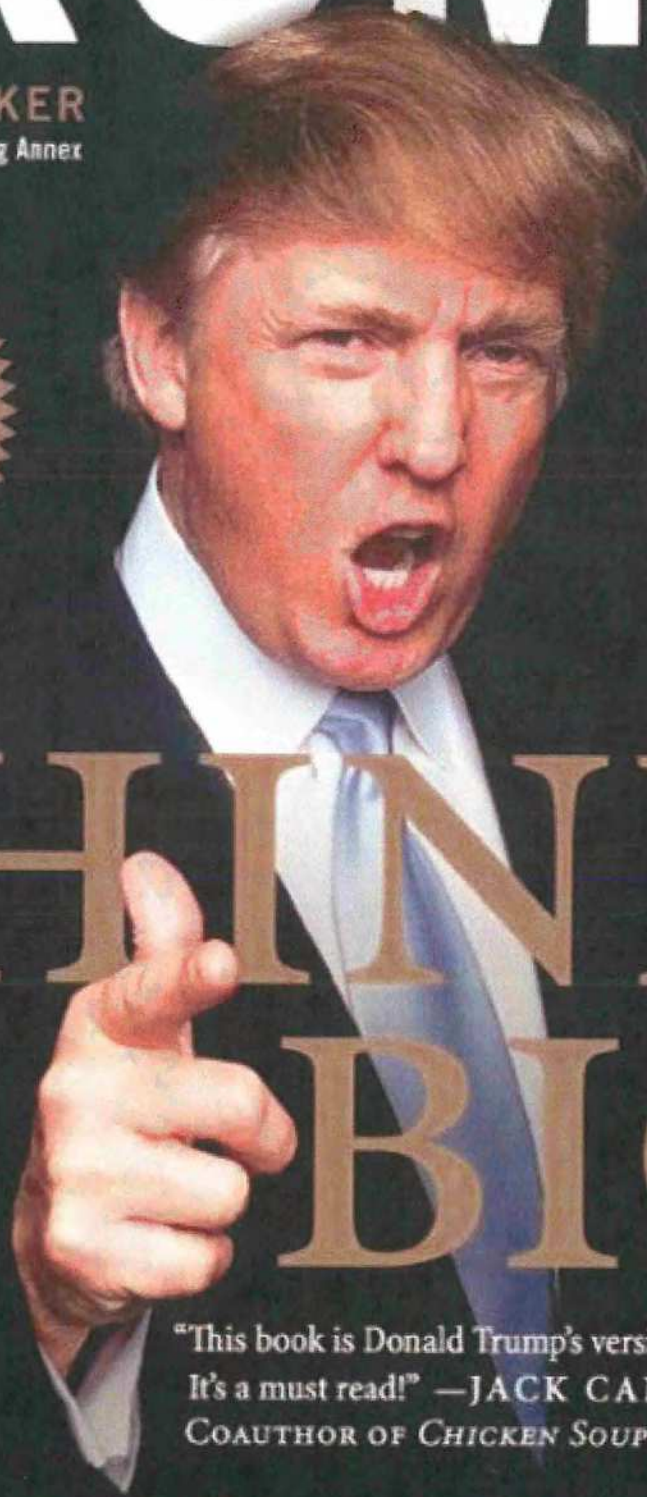
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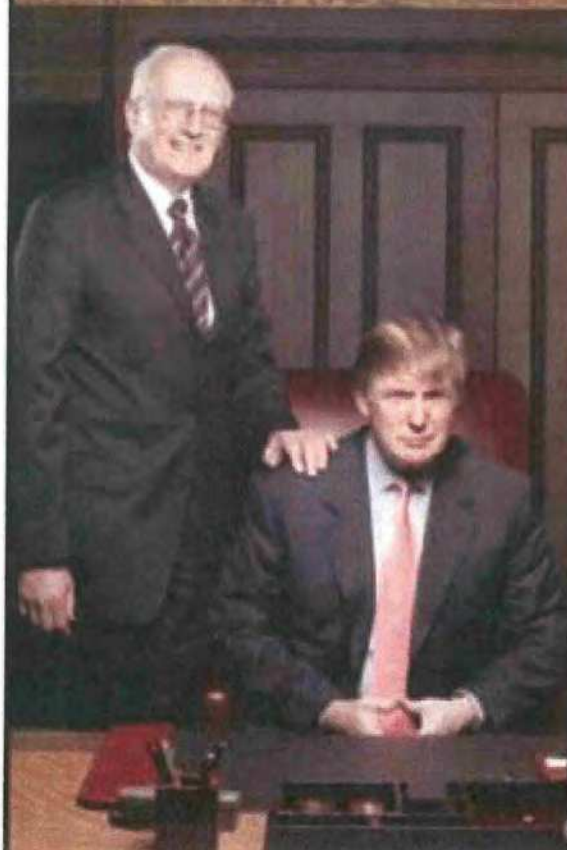
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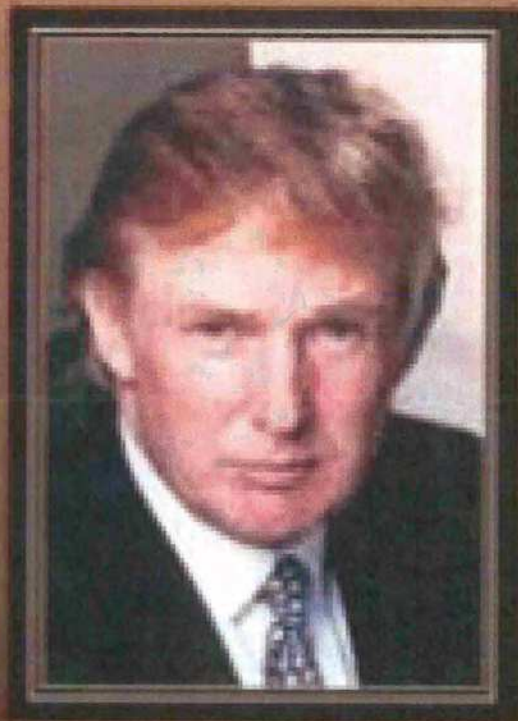
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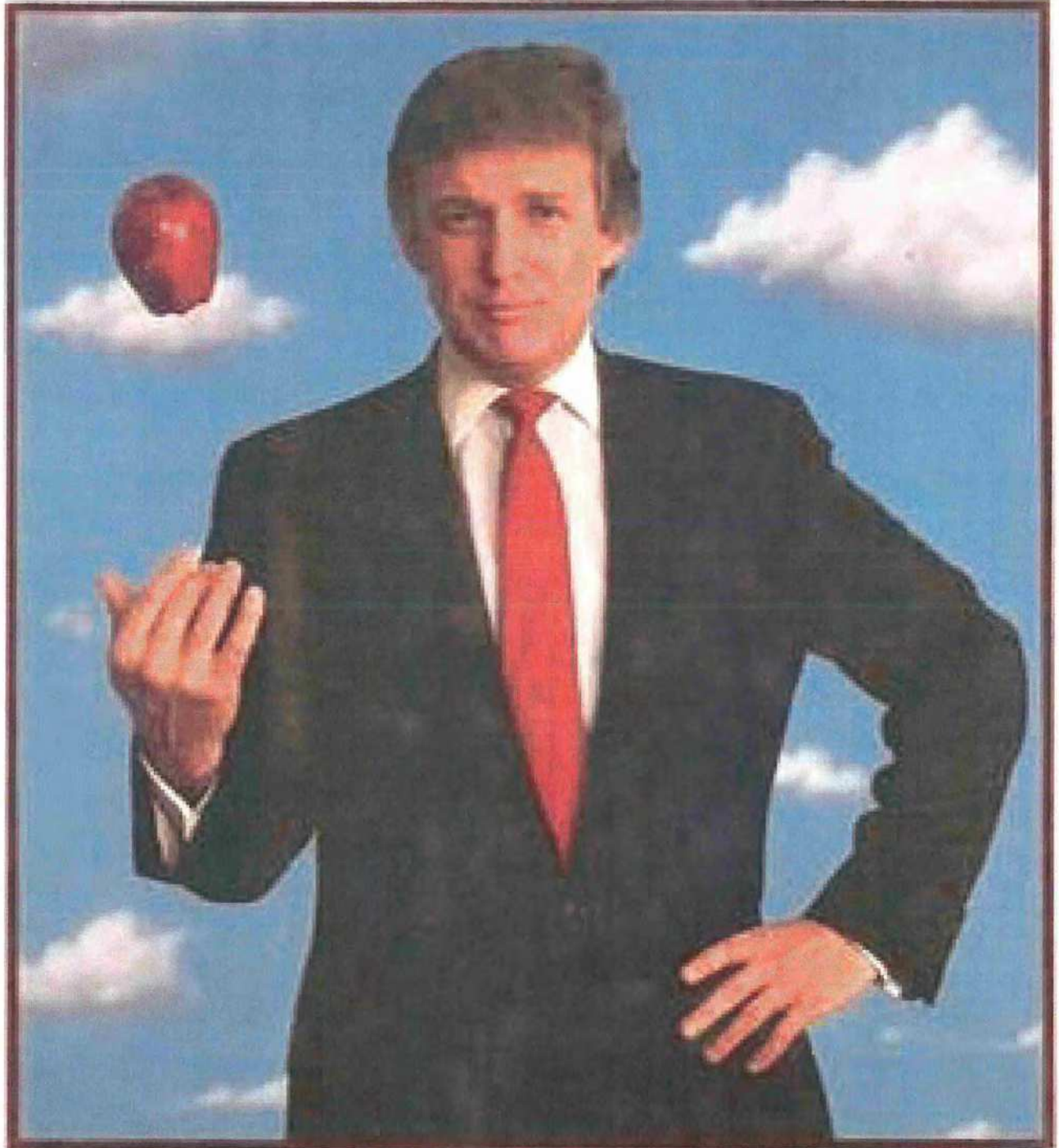


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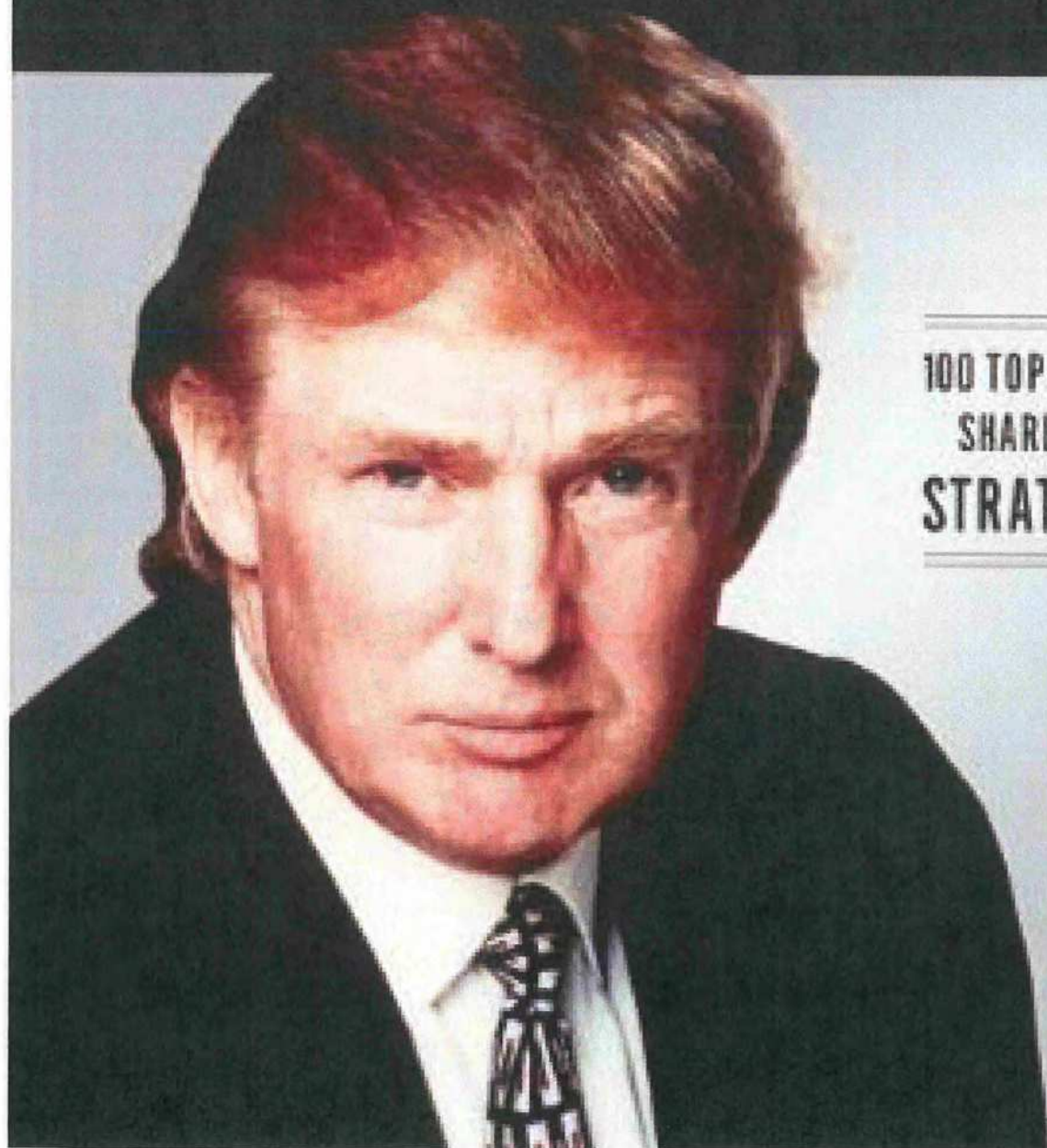


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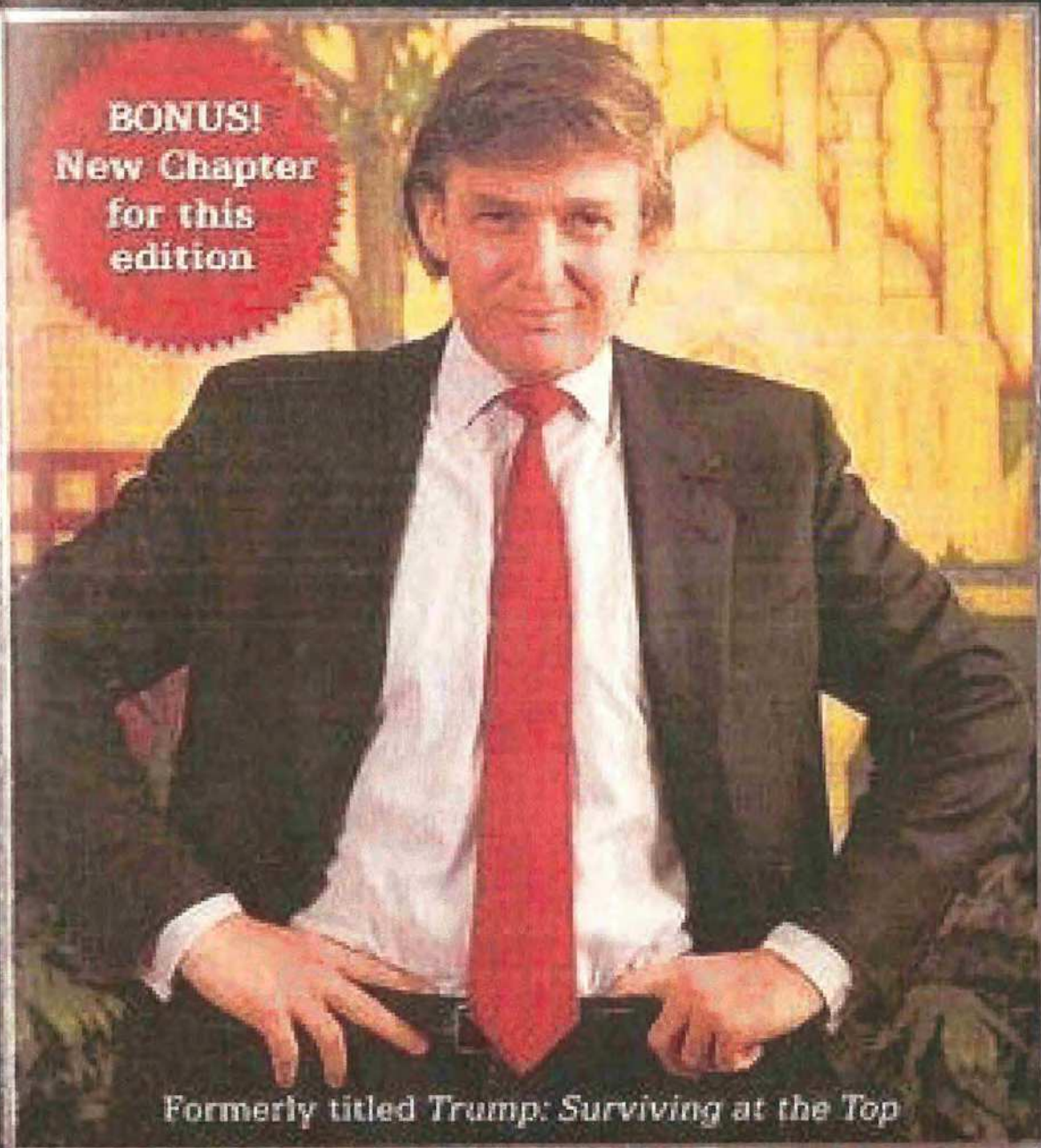


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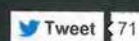
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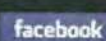


## JUNE 17, 2015: CARL ICAHN ISSUES STATEMENT CONCERNING TODAY'S LOCAL 54 PROTEST

I continue to think it's absurd that instead of working to improve Atlantic City at a time when the city is down on its luck, this Union spends time, effort and money to purposefully destroy one of the few remaining employers in town. I'm baffled by how they don't see that their destructive efforts may well result in 3,000 less jobs. In the end, what the Union doesn't tell you is that they make money on their exorbitant healthcare plan – upwards of \$140 million of net income over the past 5 years – and that is why they are more intent on fighting for their Union healthcare plan instead of saving jobs. What is eminently clear is that even with the savings awarded by the bankruptcy judge, the Taj continues to lose millions every month. I can say that the Union has been successful in one thing: causing three casinos, the Showboat, Plaza and Atlantic Club, to all close over the past year or two.



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From: Carl C. Icahn

Date: June 9, 2015

There are some important facts about your union that it is critical that you understand. [Click Here To Read](#)

To: All Local 54 Employees

From: Taj Management

Date: May 1, 2015

YOUR DECISION [Click Here To Read](#)



## STATEMENT: STOCKTON/CAESARS SALE OF THE ATLANTIC CITY SHOWBOAT CASINO

We wanted to take this opportunity to set the record straight on the Stockton/Caesars sale of the Atlantic City Showboat Casino.

In 1988 Showboat, Resorts and Taj all agreed to provide for a cluster of casinos at the north end of the Boardwalk, on or near the former Urban Renewal Tract, to create greater customer traffic for all three properties. To that end, the three agreed that Showboat would always be operated as a first class casino hotel and the three properties would be inter-connected by skyways. This agreement was memorialized in a written agreement that was publicly recorded in the Atlantic City property records

In mid-December of 2014, Caesars asked the Taj to voluntarily waive the casino/hotel covenant to permit Stockton College to acquire Showboat and convert it into a college campus. We advised that because the Taj is in bankruptcy, as a matter of our fiduciary responsibilities to our creditors, we could not waive our valuable rights under this covenant without obtaining bankruptcy court approval and without receiving appropriate consideration. We were not offered any consideration for this waiver. This was over three months ago.

The facts are that our company does not think having a college next door to the Taj is good for our company. Having kids under 21 who will attempt to gain entry to the casino and engage in activities reserved for those only 21 and older would create numerous problems we do not want and could damage the Taj's ability to attract customers and regain its financial health.

You do not see a college on the Las Vegas strip.

Both Caesars and Stockton elected to proceed with the Showboat sale even though they were fully aware that we could not waive the casino/hotel covenant as they were asking.

No further comments will be given at this time. Thank you.

**Carl Icahn  
Letter To  
Union Employees  
of Trump Taj Mahal  
March 19, 2015**

[Click Here](#) For Letter

**Trump Entertainment Resorts, Inc.  
Issues Open Memo  
to Employees of the  
Trump Taj Mahal Casino Hotel**

[Click Here](#) For Letter

**UNITE HERE!  
Local 54,  
Atlantic City  
Continues to misrepresent  
the facts to their members...**

[Click Here](#) For Letter

This guide puts it all at your fingertips. Trump Taj Mahal Casino Hotel has five-star restaurants you can't resist, from the most elegant and decadent to the fun and hip. [Entertainment, lounges and nightclubs](#) that bring New York to Atlantic City. A [casino](#) floor that pulls you in with non-stop action, retail stores with something for everyone, a must-

see collection of colorful shops and [galleries](#), all in one place on Spice Road. A spa, fitness center, indoor pool and salon for when relaxation is top priority.

Start exploring Atlantic City's Taj Mahal Casino Hotel. Make it a getaway you'll never forget.

Trump One Card Holders: Reserve Rooms, Show Tickets and more by clicking [here](#)!

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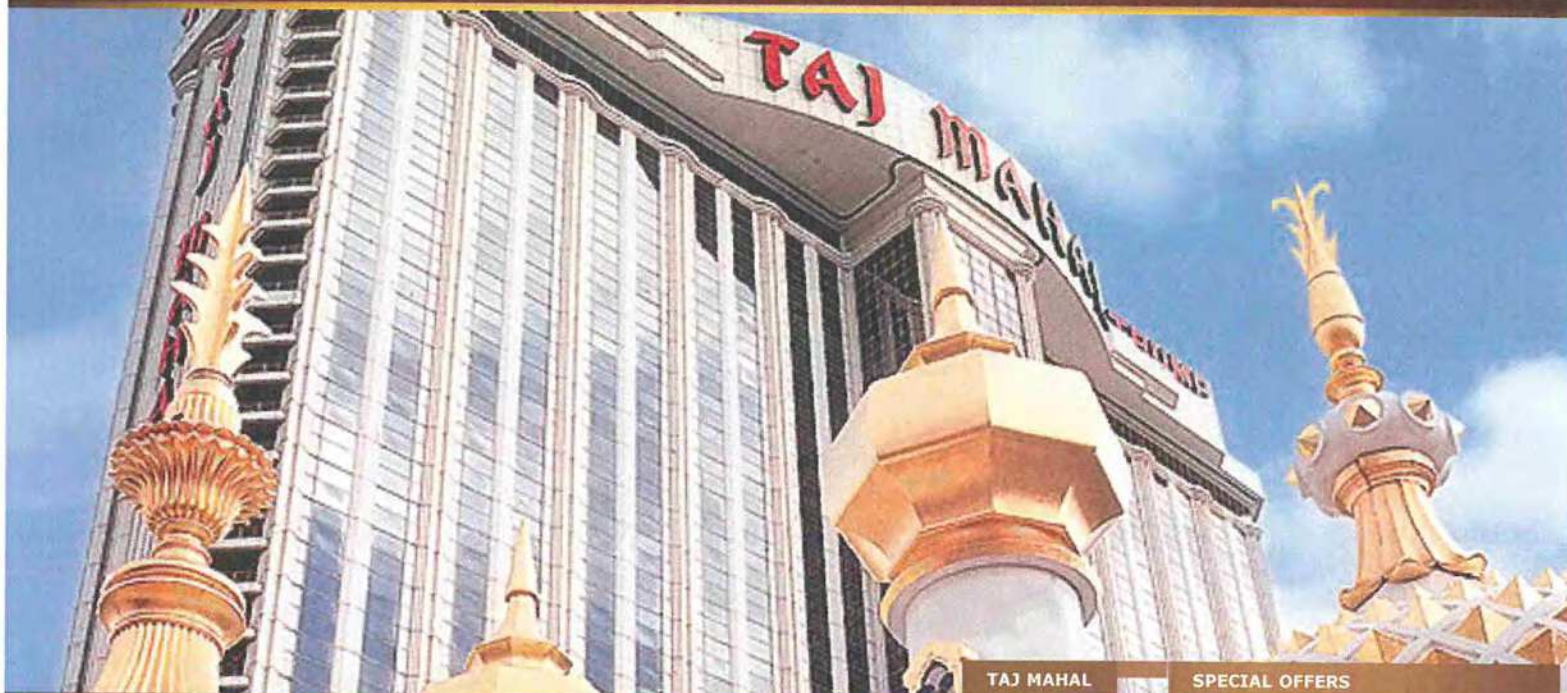
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TAJ MAHAL

SPECIAL OFFERS



CHECK AVAILABILITY

Check-In:

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## LIFE + STYLE

### INTRODUCING THE TRUMP ONE CARD

It's your one key to a world of luxury and excitement at Trump Taj Mahal.

With your Trump One Card, you will enjoy more comp choices and exclusive access to member-only events. Plus, you can earn and redeem Comp Dollars.

[Click Here](#) to learn more about the Trump One program.



TAJ MAHAL

INVESTOR RELATIONS

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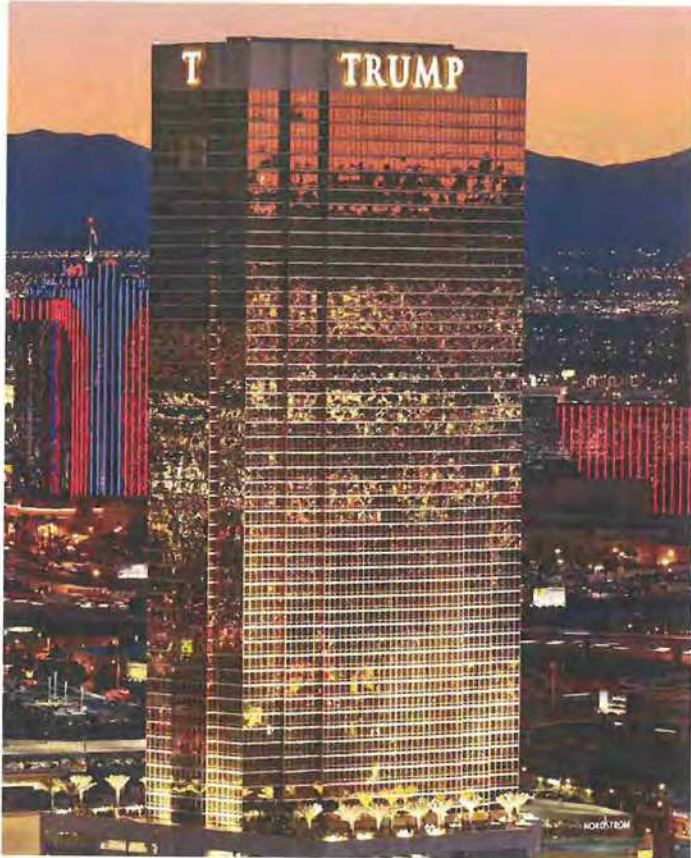
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## TRUMP INTERNATIONAL HOTEL™ LAS VEGAS



NICOLE MILNER-BREEN  
Vice President & Broker,  
Residential Sales-Las Vegas,  
NV

► [email me](#)



COLLYN MORGAN  
Sales Executive - Las Vegas, NV

► [email me](#)

Las Vegas means Glamour. Style. Excitement. Amid this culture of high rollers and glitterati, *Trump International Hotel Las Vegas* rises 64 stories high, bringing style and elegance to the heart of the Entertainment Capital of the World. Adjacent to some of the city's best shopping and casinos, our gold glass tower offers panoramas of the Strip and a haven of an unsurpassed experience within. Within the 1,232 ultra-luxury hotel condominium suites and 50 exclusive penthouse suites, white-gloved doormen, valet parking and 24-hour concierge service will treat residents as VIP guests. And with a full service sumptuous day spa, fitness center, salon and Five-Star acclaimed restaurant, DJT, the amenities are beyond world class. Lounge by the outdoor heated pool and sundeck, make the most... [read more](#)

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TRUMP GOLF

Select Your Destination



## WELCOME TO TRUMP NATIONAL GOLF CLUB



### Greetings from Donald J. Trump

Designed by the world-renowned golf course architect, Tom Fazio, this award-winning course on Southern New Jersey's highest point provides tremendous views of the entire Philadelphia skyline. Located in Pine Hill, New Jersey, Trump National Philadelphia is adjacent to Pine Valley Golf Club and covers the Philadelphia market. The accolades for this 18 hole course are certainly well deserved, and the spectacular clubhouse provides the ideal venue for a wide variety of social events.

As an avid golfer, I can tell you that this club and setting are truly something very special. I invite you to experience for yourself the extraordinary grounds and sophisticated amenities of Trump National Philadelphia.

Donald J. Trump

### MEMBER LOGIN

Username

Password

☐ Remember Me

[Forgot Password?](#)





# TRUDAMP

INTERNATIONAL HOTEL & TOWER

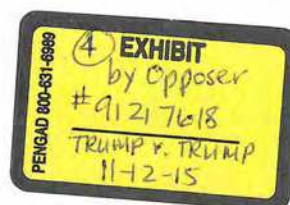


*Trump Park Avenue*



**This Website Is For Our Consulting Clients Only**

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The World's #1 Revenue Rainmaker Can Grow Your Business 20% In The First 20 Days And Up To 100% Or More Within 60 To 90 Days, All Without Spending An Additional Dime On Advertising, Guaranteed!



*"All you need is the right direction from someone who has actually been growing businesses without the need to spend any additional money on advertising.*

*And for over 25 years this is exactly what I've been doing and I'm still doing it today.*

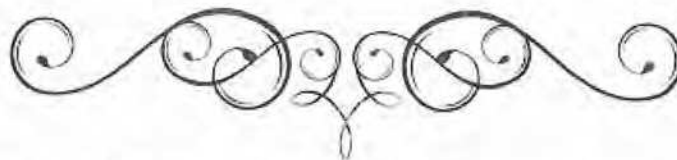
*In good times and in bad, for the last 25 years, my system has worked time and again."*

Tony Seruga

**The World's #1 Revenue Rainmaker Reveals Exactly How He Thinks, Works And Makes His Clients Money... Even In This Economy**

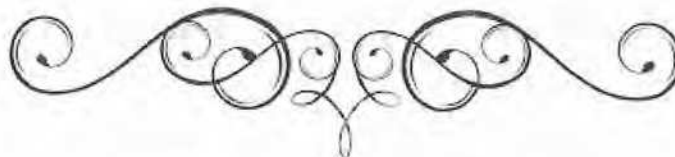
*A Limited Time Offer*





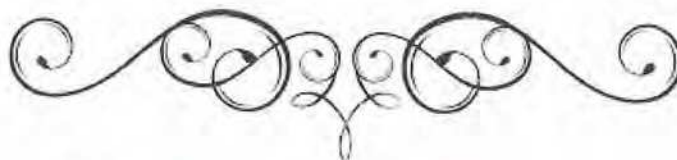
I am very impressed with Tony. He is the most knowledgeable person I have ever met in regards to marketing and the Internet. Absolutely brilliant. One of the most powerful guys on the Internet. Tony provides a different "world view" on business building, team building and wealth-building than I have ever experienced before. And his business models are extraordinary. Tony is a very interesting guy and our meetings are always insightful. Tony gave a 90 minute presentation to one of our high level mastermind groups and it was mind blowing. I can't say enough. The guy is really bright. His success in taking my ideas and adapting them to the Internet is undeniable. Tony *really* gets direct marketing. He gets the integration of direct marketing, testing, niches, strategic alliances, in one of the most interesting ways I have ever seen.

**Jay Abraham**  
**Marketing Legend**



Tony Seruga is a very fascinating individual that, until recently, has maintained a certain anonymity. He slowly and methodically rose to the top of the field of direct-response advertising, and is considered by many insiders to be one of the best freelance copywriting and marketing experts in the country. Tony's unique ability to create successful Internet ventures has captured the attention and respect of Fortune 500 CEOs, entrepreneurs, best-selling authors, Internet "gurus" and marketing experts alike. In fact, if the truth be known, many marketing consultants would acknowledge Tony as their "secret weapon" including Bob (Allen) and I. In fact, Tony was instrumental in the promotion of our "One Minute Millionaire" book.

**Mark Victor Hansen,**  
**Co-Author "Chicken Soup For the Soul"**  
**Series & Motivational Speaker**



## **FREE 60 Minute Advertising And Marketing Strategy Workshop From The World's #1 Revenue Rainmaker**

**Learn How To Uncover Ten Thousand To A Million  
Dollars Or More In New Found Sales From Your  
Business In The Next 60-90 Days Without Having To  
Spend Even One Thin Dime On Advertising**

**How to make \$100,000 a MINUTE**



The following 50-minute business building consult below was worth over \$5,000,000 in additional PROFIT to the Client you'll hear. Here's your chance to eavesdrop and glean the same insights as him. Go ahead, with pen and paper in hand and listen now.

(Very important: Make sure you listen to every minute. Do not skip ahead, because you may miss a breakthrough strategy that could make all the difference to your business, income and long-term wealth.)

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Following the presentation, for a very limited time, we'd like to gift you a \$497 consultation. Tony normally charges his Fortune 500 clients \$7,500 per hour! Additionally, we'd also like to introduce you to a system we've been testing for the last 3 years, that will generate all of the new customers, clients or patients your business could ever possibly need or use. It's truly incredible. So, stay tuned for details following the presentation. This is not some slick sales presentation. We are literally changing lives each and every day with our valuable insight, advice and systems. Tony is extremely passionate about helping business owners create their own economy.

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## **Exhibit F**

**Mr. Trump's Supplemental Pretrial Disclosures  
in the TYC Opposition Proceeding**



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DONALD J. TRUMP,

Opposer,

-against-

TRUMP YOUR COMPETITION, INC.,

Applicant.

Opposition No. 91217618

**OPPOSER'S SUPPLEMENTAL PRETRIAL DISCLOSURES**

Pursuant to Rule 26(a)(3) of the Federal Rules of Civil Procedure and Section 2.121 of the Trademark Rules of Procedure, 37 C.F.R. § 2.121, Opposer Donald J. Trump ("Opposer"), through his undersigned counsel, hereby supplements Opposer's Pretrial Disclosures as follows:

A. Witness List.

Opposer intends to or may take the testimony of the following witnesses:

Alan Garten  
Executive Vice President and General Counsel  
The Trump Organization  
725 Fifth Avenue  
New York, New York 10022

Eric Trump  
Executive Vice President of Development and Acquisitions  
The Trump Organization  
725 Fifth Avenue  
New York, New York 10022

B. Subject Matters and Documents Introduced During Testimony.

The foregoing witnesses may testify regarding the history and business of the TRUMP MARKS (as defined in Opposer's Responses to Applicant's First Set of Interrogatories, dated

February 19, 2015) and Opposer's efforts to police the TRUMP MARKS.

The types of documents and things which may be introduced as exhibits during the testimony of the foregoing witnesses include the following:

- Documents concerning Opposer's history and business.
- Documents concerning the TRUMP MARKS.
- The contents of the United States Patent and Trademark Office file histories, applications and certificates of registration for the TRUMP MARKS.

Dated: New York, New York  
November 4, 2015

HUGHES HUBBARD & REED LLP

By: 

Natasha N. Reed

Lena C. Saltos

725 Fifth Avenue

New York, New York 10022

(212) 715-6783

*Attorney for Opposer*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing OPPOSER'S SUPPLEMENTAL PRETRIAL DISCLOSURES is being served on November 4<sup>th</sup>, 2015 by first class mail and email upon counsel for Applicant as follows:

Rod Underhill, Esq.  
P.O. Box 1238  
Julian, CA 92036-1238  
Email: [mp3rod@aol.com](mailto:mp3rod@aol.com)

Dated: New York, New York  
November 4, 2015



---

Lena C. Saltos

## **Exhibit G**

*Donald J. Trump v. Trump Your Competition, Inc.,*  
Opposition No. 91217618, Applicant's Answer  
to Petitioner's Amended Notice of Opposition  
and Applicant's Affirmative Defenses (T.T.A.B.  
Nov. 12, 2014)

ESTTA Tracking number: **ESTTA638487**

Filing date: **11/12/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

|                           |   |
|---------------------------|---|
| Proceeding                | 91217618  |
| Party                     | Defendant<br>Trump Your Competition, Inc.   |
| Correspondence<br>Address | ROD UNDERHILL<br>ROD UNDERHILL ESQ<br>PO BOX 1238<br>JULIAN, CA 92036-1238<br>UNITED STATES<br>MP3Rod@aol.com |
| Submission                | Answer  |
| Filer's Name              | Rod Underhill   |
| Filer's e-mail            | MP3Rod@aol.com  |
| Signature                 | /RodUnderhill/  |
| Date                      | 11/12/2014  |
| Attachments               | Trump PDF Answer to Amended Complaint.pdf(83882 bytes )   |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 86/116,800  
*Published in the Official Gazette on April 8, 2014*  
Mark: TRUMP YOUR COMPETITION

DONALD J. TRUMP,

Opposer,

Opposition No. 91217618

Serial No. 86116800

-against-

Mark: TRUMP YOUR COMPETITION

TRUMP YOUR COMPETITION

Applicant.

**APPLICANT'S ANSWER TO PETITIONER'S AMENDED NOTICE OF  
OPPOSITION AND APPLICANT'S AFFIRMATIVE DEFENSES**

Applicant, TRUMP YOUR COMPETITION, INC, ("Applicant"), by and through its undersigned counsel, hereby replies to the Opposer's Amended Notice of Opposition.

1. Applicant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 1 and, therefore, denies the same.
2. Applicant is without knowledge or information sufficient to form a belief as the allegations of Paragraph 2 and, therefore, denies the same.
3. Applicant is without knowledge or information sufficient to form a belief as the allegations of Paragraph 3 and, therefore, denies the same.
4. Applicant is without knowledge or information sufficient to form a belief as the allegations of Paragraph 4 and, therefore, denies the same.
5. Applicant is without knowledge or information sufficient to form a belief as the allegations of Paragraph 5 and, therefore, denies the same.
6. Applicant admits the allegations of Paragraph 6.
7. Applicant admits the allegations of Paragraph 7.

8. Applicant denies the allegations of Paragraph 8.
9. The Applicant denies the allegations of Paragraph 9.
10. The Applicant denies the allegations of Paragraph 10.
11. The Applicant denies the allegations of Paragraph 11.
12. The Applicant denies the allegations of Paragraph 12.

**FIRST AFFIRMATIVE DEFENSE**

The Notice of Opposition fails to state a claim upon which relief may be granted.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition against Application Serial No. 86/116,800 be dismissed with prejudice.

Date: November 12, 2014

Respectfully submitted,

/Rod Underhill/  
Rod Underhill  
CA State Bar No. 96025  
PO BOX 1238  
Julian, CA 92036  
(619) 540-0631

**ATTORNEY FOR APPLICANT**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing APPLICANT'S ANSWER TO PETITIONER'S AMENDED NOTICE OF OPPOSITION AND APPLICANT'S AFFIRMATIVE DEFENSES has been served on Attorney James D. Weinberger by mailing said copy on November 12, 2014, via First Class Mail, Postage prepaid to:

James D. Weinberger, Esq.  
Fross Zelnick Lehrman & Zissu PC  
8666 United Nations Plaza 8<sup>th</sup> Floor  
New York, NY 10017

/RodUnderhill/

Rod Underhill